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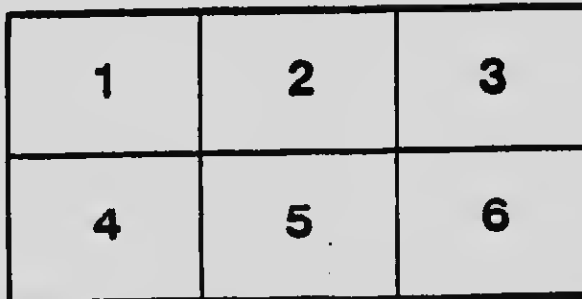
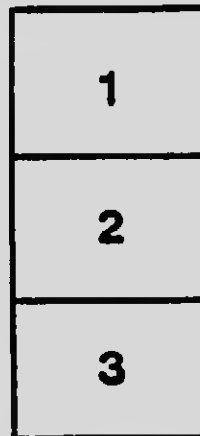
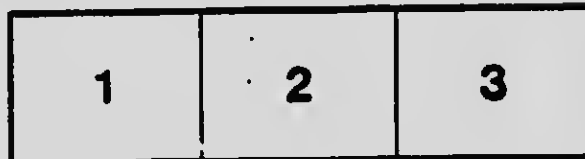
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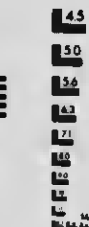
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THE CORRECTOR OF DESTINIES

*Being tales of Randolph Mason as related
by his private secretary, Courtlandt Parks*

BY
MELVILLE DAVISSON POST

AUTHOR OF "THE STRANGE SCHEMES OF
RANDOLPH MASON"

Toronto
McLeod & Allen
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CHAPTER I

MY FRIEND AT BRIDGE

ON the evening of the 23d of December, I was one of a party at bridge at the residence of Baron Adolph von Hubert on Eighty-sixth St. et. The Baron was the American agent of the F. lin banking-house of Weissell & Company. The charming Madame von Hubert was Sarah Lemarr, the wealthiest debutante at Newport when the Baron met her. A brilliant woman, who was vainly endeavoring to establish, in New York, a salon after those of Paris under the Empire. Perhaps I should have omitted the word vainly, because one met almost everybody having any claim to distinction, in the drawing-rooms of Madame von Hubert.

The little party on this evening consisted of Madame von Hubert, the Baron, Winfield Gerry and myself. Young Gerry, who went everywhere among people of leisure, was taken to be enormously rich. His brother, Marcus Gerry, was certainly one of the wealthiest men in New York. He was the largest stockholder, and financial dictator, of the Fifty-eighth National Bank. Winfield Gerry was under

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thirty, a courtly young fellow, almost as handsome as a girl. He was extravagant, daring, it was said, and reckless. He had been brought up from boyhood on the Continent, I think, and was colored with the Latin temperament.

I do not remember ever to have been so fortunate at cards as on this evening. When we arose from the table, I had won seven hundred dollars, of which sum the Baron lost two hundred. The remainder was the loss of Winfield Gerry. I was glad of this distribution of the loss. Young Gerry was reputed an idle young fellow with millions at his finger tips.

The Baron, keeping his money, like a Teuton, in gold, handed me ten double-eagles. Mr. Gerry said that he would give me a check at the club, and asked me to ride down-town with him in his carriage. We were scarcely seated before he turned to me and said, in a quiet, even voice, as though he were announcing a score:

“I can't pay you, Mr. Parks.”

I turned in astonishment to see if he was jesting. The electric light in the carriage showed me a face distressingly drawn and tired. There was no pleasantry behind that countenance. The solution came to me instantly. This man, posing as a gentleman, was in fact a cad; he was about to question the regularity of the game, the regularity of a friendly sitting at bridge in the house of such people as the von Huberts. I bristled with indignation.

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"And may I inquire," I answered frigidly, "why is it that you cannot pay me, Mr. Gerry?"

The man did not at once reply. He took a cigarette from his pocket, lighted it and leaned back on the cushions of the carriage.

"For the best reason in the world, Mr. Parks," he answered; "I have at this moment, to be entirely accurate, just two hundred and thirty-eight dollars and seventy-five cents."

I was greatly relieved. "My dear sir," I laughed, "I do not expect you to carry about a cash drawer. I knew an Englishman once whose income was something like a hundred thousand sterling, and who did not have a shilling in his pocket from one year's end to the other. I should be glad of your check. I should be glad of any number of your checks."

"You are alone there," he said simply.

My annoyance returned. I detest passages at banter. "I trust," I said, "that you will permit me to understand you."

Gerry took his cigarette from his mouth, ground the lighted end against the panel of the carriage and threw it on the floor.

"It would be better, I have no doubt," he said, looking me evenly in the face. "I have not intended to be either obscure or facetious. The sum which I have just mentioned represents all the money that I have in the world. My reputation for wealth is a mere shell. I owe ninety-five thousand dollars, ex-

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clusive of this little debt to you. Stable and tailor bills, various club dues, run fifteen hundred more. I owe twelve hundred in over-drafts. It is near a hundred thousand, you see. Against this, I have perhaps five thousand dollars of personal effects; horses worth thirty-five hundred and a bundle of worthless stocks. I am beastly poor, atrociously poor, you see, Mr. Parks."

I listened in astonishment.

"You will doubtless put me down a cad," he went on, "to join a game of bridge when I had not the money to pay my losses. In fact, I did not intend to play. I called, intending to make my excuses to the Baroness and depart. I found this politely impossible, and I sat down to the table hoping that two hundred dollars would cover my proportion of probable loss." He paused and made a deprecating gesture. "It was no idle fancy of the ancients to picture Fortune a woman. I might have known."

Then he stopped, stripped off his gloves, took out his purse, removed two rings, unhooked a jewel from his tie, and, before I realized what he was doing, handed them all to me. I put back his hand. He thrust the articles into his waistcoat pocket and dropped his hand on his knee.

"I thank you for the courtesy," he said, "but you would much better take them. They will presently be listed by the referee in bankruptcy. One Brazilian diamond, two and a half carats, valued at

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three hundred dollars. One imitation ruby, valued at fifty dollars. One baroque pearl, valued at twenty-five dollars. The very jewelry is mostly sham. I am a rather complete pretense, Mr. Parks."

I had been studying the man for the last five minutes. Nothing could be more impressive than the calm with which a thoroughbred meets his ruin. I have seen most sorts of men meet it.

There was little to say, and I said it with the best grace I could gather — the usual platitudes. Something would turn up in the morning, wealthy friends were in abundance. I mentioned his brother, Marcus Gerry.

He said the name over slowly after me, "Marcus Gerry." Then his lips set evenly along his fine, sensitive mouth. But only for a moment. He gave me a swift glance and began to laugh.

"My brother is all right, you know; but he is a commercial factor. His financial sense is sound. A rotten ship is a rotten ship. The captain of it cannot matter a two-pence. Let him step down and off, and the hull go to Davy Jones. Pension the captain perhaps, but cut loose from the derelict. That's Marcus Gerry. That's the sane view."

We were down-town now. The carriage was turning into Fifth Avenue. The young man touched the driver's button.

"This is your club, Mr. Parks, I believe," he said. "I am obliged by your kindness. Won't you let me give you the gewgaws?"

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"By no means," I answered, getting out of the cab. "Please do me the courtesy to forget our game of bridge."

He laughed pleasantly. "Oh, I shall forget it, thank you. Seafaring folk at Bremen say the cable ought always to read, '*Der Kapitän ging mit seinem Schiffe unter.*'" Ther he spoke to the driver and closed the carriage door.

I went into the club and got a pony of brandy, a cigar and a chair by the fire. I was greatly sorry for young Gerry. He was an exceedingly pleasant fellow. Still, I could do nothing. I had thought the matter over fully. I could, of course, bring him to Randolph Mason, but of what use was that? There was no balance of injustice to be squared up here. A reckless young spendthrift, come to the end of his tether, was all. Mason would have that fact out in a twinkle, and close the door in his face. It was out of the question to fool him. He would pick a man like a vulture at a bone till he got to the marrow. I threw the cigar into the fire. Anyway, Marcus Gerry would doubtless pension the captain of the rotten ship. At the worst, he would probably be better off than the most of us. Then I recalled the German sentence.

"Heinrich," I said to the club steward, "what is '*Der Kapitän ging mit seinem Schiffe unter*'?"

"Der Captain vent down mit his ship," replied the man.

A great light came to me. I went over to the

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table and wrote on my card, "Come to Randolph Mason to-morrow at eleven. The old Field mansion off Broadway, below Wall Street." Then I sent it to his address by messenger. That would at least gain time; and perhaps the boy would give up the idea of suicide. Then I took another pony of brandy and walked to my lodgings.

Randolph Mason occupied the old Field mansion, on the west side of Broadway below Wall Street. It is an ancient brick house with a dilapidated garden, surrounded by an iron fence. No effort seems to have been made for years to keep this property in repair; it remains almost as it was a century ago, when it was considered a type of Colonial architecture in America. The plaster has fallen from the columns in irregular patches. The large red tiles of the portico, which were brought over from England, are mostly cracked. The flagstone walk to the street remains, perhaps, the only one in New York. Still, the house is a good one. It was built as our fathers built—twenty-four-inch walls, heavy oak timbers, solid mahogany doors, and all the exposed metal brass and copper. The floors are hardwood, worn smooth as bone. I think the door is considered a model of Colonial excellence. I have seen it frequently reproduced in architectural journals. The fan-shaped panes above are thought to be of exceptional beauty. I believe the brass knocker used to

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grace a house in Bond Street, in the time of George the Fourth.

This property is a hand out of the past clutching Broadway. Around it are gigantic office buildings, running to twenty stories. The roar of the greatest commerce in the world beats along its rusted iron fence. I am not entirely clear about the history of this house. It seems to have descended by an entail, as far as the law would permit, to Simon Field, who, for some conspicuous service, gave Randolph Mason a life lease of the property in his will. An Italian servant, Pietro, and his wife, Francesca, kept the place for Randolph Mason. They lived in the basement. The woman was an Italian peasant of a type to be found only in the country near Genoa, industrious and economical almost past belief. She prepared the meals for Randolph Mason, did the marketing and so forth, but never came into the upper part of the house, which he occupied.

This was the province of Pietro, who was the valet and man-of-all-work. Mason would allow no other servant near him. He seemed attached to Pietro. The man was silent, efficient, and able, it seemed, to anticipate his master's wishes. I picked up the pair of them in a little village of the Italian Riviera when I had Mason in the south of Europe. Pietro was a deserter from the army and in hiding. We got them safely to New York and they remained with Randolph Mason.

After a year in America, the two servants had

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become so efficient that I put them in charge of the house and took lodgings at an apartment club. I had several reasons for this; one of them was that I had come now to have enlarged social duties in New York, and required proper bachelor quarters. It also rid me of an exacting personal care of Randolph Mason. I went down each morning at ten o'clock and returned at three. Sometimes, however, I remained the night. But the house was without comforts. It was one huge library of law books, and Randolph Mason had no regular habits; the silent Pietro might slip into your room at any hour for a volume of reports. I came more and more to bless Providence for Francesca and this jewel, Pietro.

I was a little late in arriving on Broadway the morning after the game of bridge. As I stopped to open the old iron gate to Randolph Mason's house, Winfield Gerry came across from Wall Street and joined me. He looked well-groomed and wholesome. He was certainly a clean-limbed, clean-faced young fellow, and there was nothing in his manner to recall the evening before. He spoke to me cordially, joined me at the gate, and walked up to the house. He made some pleasantry about the dilapidated garden, and then began to talk polo. I caught no tang of misery in his talk.

We entered the house and crossed the wide hall to the old-time drawing-room, now used for an office. As I threw back the mahogany door, I observed Randolph Mason leaning over the table in the mid-

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dle of the room. He straightened up, cast a steady, searching glance at young Gerry that ran swiftly over him to his feet, then turned abruptly and walked into the adjoining room, closing the folding-doors behind him.

We entered and young Gerry took a chair by the window. "Was that Randolph Mason?" he said.

I answered that it was.

"Until I saw his face," he continued, "I could have sworn that it was Liebach, the greatest surgeon in Europe. He has Liebach's hands, too. But the resemblance vanished when he looked up. This man's lean, sinewy, protruding jaw is almost a menace. He is not as gray as Liebach, either; and, besides that, Liebach has, once in a while, something gentle in his face, if they do call him the 'Wolf,' in Munich. This man's face looks metallic, as though it might ring if you struck it."

I laughed, tossed him the morning paper, and begged him to excuse me while I ran over the morning mail. I was scarcely seated before Pietro appeared, saying that Mr. Mason wished to see me. I arose and went into the adjoining room.

Randolph Mason sat at his table, his elbow on the writing-pad and his chin propped in the hollow of his hand. Before him was a square sheet from his memoranda files. He began to volley questions in a voice that snapped like the click of a gun-barrel into its block.

"Is Wilder acquitted?"

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"Yes," I answered; "a *per curiam* opinion yesterday. The mandate will come down from the United States Circuit Court of Appeals, Monday."

"The Atlantic Canadian Securities?"

"Returned out of court, coupons paid up, costs assumed by the Syndicate."

"André Dessausure?"

"Dead," I replied.

At the word, Mason turned over the memorandum sheet on the table, folded his arms and stared vacantly at the rows of bookcases lining the wall. This was the enemy beyond him. The State Department waited a day too long. The little Frenchman had taken to his brazier of charcoal like an impulsive son of the Quartier Latin, and Mason had failed. I seized this opportune mood to get an audience for young Gerry.

"Mr. Mason," I said, "in the next room is another man booked to the same shipping-point."

He turned sharply in his chair. "Bring him in," he said.

I opened the door and requested the young man to come into this private office, although I had little hope that Randolph Mason would even hear his history to the end. I had no hope of his assistance for young Gerry; his case had none of the elements of uncorrected injustice, bringing it within Mason's zone of interest. I expected to see Mason search him mercilessly for a moment, and then drop him as a prospector would a spurious nugget.

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Young Gerry entered and remained standing by one of the bookcases near the table. Mason looked at him carefully for a moment; then he said, "How much do you owe?"

Winfield Gerry glanced quizzically at me. I reassured him with a nod and he answered, "In round numbers, one hundred thousand dollars."

"For what?" said Mason.

"Borrowed money," replied Gerry.

"For what?" Mason repeated.

The young man hesitated; then he said, "I am thought to be rather reckless where money matters are concerned. Horses that are not fast enough, women that are too fast; usually an explanation is required to go no further."

I could readily see that he was hoping to evade this query.

"What is the truth about it?" said Mason.

Young Gerry shifted his feet uneasily. "Well," he began weakly, "won't that do for an explanation? How can it matter, anyway? The money is gone."

Mason continued monotonously to repeat his question. The young man seemed to go through that period of uncertainty and hesitation common to the court witness who finds himself forced by the examiner either to make a clean breast of his story or stubbornly refuse to answer anything at all. He chewed his lips nervously, fumbled with the buttons on his waistcoat and stroked gently the angle of his jaw. Mason waited without apparent interest.

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Finally, he arrived at his conclusion. He dropped his hand as with a gesture of resignation.

"Very well," he said; "this is the whole truth: My father and Egan Bedford were financial partners. One day Bedford borrowed all the money he could get in Wall Street on the firm's credit, and apparently used it in an unsuccessful effort to hold up a line of rotten securities, while in fact he secreted the money. A little later the firm failed. Bedford cleared himself of the wreck in bankruptcy. My father paid up the losses out of his private fortune as far as he could. When he died I assumed the remainder of the loss, about two hundred thousand dollars. I have paid half of it; but I can go no further."

He dropped his hand limply on his knee, as he had done the evening before in his carriage. Again I was astonished at the contradiction which Winfield Gerry presented. I studied his face. It was drawn and tired, as it had been last night. I had been wrong about him, wrong about his character, his habits and the causes of his unfortunate situation. This boy was breaking at the knees under the burden of another's wrong. I understood him now. The air of recklessness was assumed to explain these debts. He was playing the loose spendthrift, while he strove to clear his father's name and to return what Bedford had stolen.

Young Gerry pulled himself together. "I hardly realize why I have laid this matter open," he con-

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tinued; "I came here with no such plan. I came, in fact, merely to put in the morning."

There was something sinister in the way he spoke of the morning — like a convicted prisoner, coming up to be sentenced at the afternoon sitting of a court.

"Where is this man, Egan Bedford?" said Randolph Mason.

Winfield Gerry lifted his face in surprise. "You surely know Egan Bedford," he said; "he is the richest broker in Boston. Egan Bedford & Company is the firm name; but there is no firm and no company, it's all Egan Bedford. He posed a few years as a financial unfortunate, then he gradually brought out the covered funds. To-day he is one of the largest private bankers in Massachusetts." Then he added, wearily, "The scheme of things seems to require a hell. Matters must be adjusted somewhere."

"This one will be adjusted here," said Mason.

Young Gerry smiled somewhat bitterly. "Such a thing is impossible," he said; "quite impossible."

Randolph Mason ignored the words. His face lost its gleaming vitality, as though a curtain were lowered behind it shutting out the light. The effect on Winfield Gerry was instantly noticeable. The atmosphere of stress was lifted. He stretched out his limbs, and looked curiously about him at the rows of bookcases along the wall, the oriental rug on the floor, the scattered volumes on the table, quite

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as if Randolph Mason had walked out of the room. Then he turned as if to go into the outer office. He was half facing the door, when Mason's chin went up. Instantly he fell into an attitude of attention.

"Are you related to Marcus Gerry?" said Mason.

The young man crossed the floor and sat down in a chair. "He is my brother," he replied.

"Then," said Mason, "this thing is child's play."

The old listless cloud settled again over Winfield Gerry's face. "Mr. Mason," he said, "there is no hope in that quarter. My brother, Marcus Gerry, is not a sentimentalist, as I am. He is a practical person. When one gets a dollar from Marcus Gerry, he leaves two in unquestioned securities until he comes back with the loan. His instincts are those of a banker, human until it comes to the money sacks. Do not misunderstand me. My brother would promptly knock down the man who assailed my name in his presence. He would go up to the door of state's prison to crush my enemy. He would grind every moral precept into pulp to pull me out of a hole; but he would not pay out a hundred thousand dollars, nor a hundred dollars, nor one dollar, to wipe out this debt which I have assumed. I have gone over this matter more than once with him. He is lying in wait for Egan Bedford. He has gone to great pains to cultivate amicable relations with him. Bedford & Company has become the Boston correspondent of the Fifty-eighth National Bank, which belongs to my brother. Marcus Gerry will

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repay Bedford in his own good time when the hour finally comes."

"It has come," said Mason. Then he leaned forward in his chair and looked Winfield Gerry steadily in the face, as one does with a child when he wishes to impress upon him the importance of some direction.

"Young man," he said, "attend accurately to what I am about to say. You will at once make a careful and correct estimate of the amounts owed by the estate of your father and yourself by reason of Egan Bedford. This statement must be correct. Not a cent more, not a cent less, than the exact sum. You will at once dispose of any property you have in New York, and on next Monday go to Boston and open an office as a broker. Before the end of the week you will receive a telegram from Marcus Gerry authorizing you to follow my directions. On receipt of it, go at once to the banking-house of Egan Bedford & Company, and say to Mr. Bedford that you wish to establish a temporary line of credit with his house; that you are about to draw a series of checks on the Fifty-eighth National Bank of New York, which you wish him to cash, and for which you will pay him the usual commercial discount.

"Also tell him that you have no deposit in the Fifty-eighth National Bank subject to check, but that this bank will arrange with him about meeting the checks, and to take the matter up with it at once. You will say nothing more, and leave the bank.

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"On the next day begin to present your checks, payable to yourself and drawn on the Fifty-eighth National Bank of New York. These checks will be made out for the amounts, respectively, in your statement of debts. With the money, as you receive it from each check, you will at once pay that creditor in full. This you will continue until all the creditors are paid. It ought not to require longer than a fortnight."

Mason arose as though to dismiss the audience with young Gerry; then he added, "You will remember to do exactly as I say; do you understand that?"

"I understand," replied the young man in amazement. "But the thing is impossible. The Fifty-eighth National Bank will never shoulder such a loss. These debts aggregate three hundred thousand dollars."

"The Fifty-eighth National Bank of New York," said Mason, "will not lose a dollar."

"Then," cried Gerry, now utterly incredulous, "I do not know how under heaven Egan Bedford can be got to cash the checks!"

"It is sufficient that I know," said Mason. Then he got up abruptly and walked out of the room.

I had a lot of trouble with Winfield Gerry after Randolph Mason left the room. He was politely incredulous. The thing was certainly impossible — quite too absurdly impossible, he thought. Ran-

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dolph Mason was nodding. Egan Bedford was the last man in the world to be taken for a fool. He would not cash checks on the Fifty-eighth National Bank of New York unless that bank guaranteed the payment, especially when he was told that the drawer of the checks had no account on deposit. Who would indemnify the Fifty-eighth National Bank? Not his brother, not Marcus Gerry. Mason was under a violent illusion about any financial aid to be had from him. No such authority as Mason intended would ever arrive from him. It was out of the question to tell Egan Bedford that the Fifty-eighth National Bank would take care of the checks. What use was there to lie, when in a few moments by telephone Bedford could ascertain the statement was not true. He did not wish me to misunderstand him, he said. He had no mooning sentiment about paying Egan Bedford in his own coin. The devil ought to be fought with fire. It was the only way to get through the hide of such a beast as Bedford. Neither did he wish to give me a false impression of his brother. Marcus Gerry would do everything on earth to carry such a matter through except pay the money, and that was the very thing which he must do under this plan. Egan Bedford would not cash the checks until the Fifty-eighth National Bank — that is, Marcus Gerry — guaranteed them; therefore, Marcus Gerry must pay them. A loss could not be left suspended in the air. It could not be made to vanish like a magic carpet; neither could

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Randolph Mason, great as he was, create three hundred thousand dollars out of the naked atmosphere of Broadway. He had not the Philosopher's Stone; had he? nor Aladdin's Lamp? nor a Genius in a Copper Pot?

I took up the boy rather sharply. I reminded him that he was pretty far over the side of the ship to be striking at the hand reached down to help him. What other plan had he? A pistol, a bottle of acid, a manufactured accident? Suppose the plan failed, was he any the worse? The pistol, the acid, the accident remained to him. But the plan would not fail. I did not know any more than he how the thing was to be accomplished. But Mason knew. He must go to Boston and follow his directions to the letter. The result was the affair of Randolph Mason.

And so I hammered at him, through the office rooms, out of the door and down the flag-path to the street. Finally, at the gate, he promised to go to Boston, open the broker's office as Mason had directed, and wait for the telegram from Marcus Gerry. Of course it would never come, he said. One might as well wait for the coming of Arthur. He would take the thing as a sort of Gideon sign. If it came he would thenceforth believe in miracles, and go on with every detail as Randolph Mason had instructed him to do.

I was not present at the conference of Marcus Gerry with Randolph Mason. He came on Tuesday

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evening, when I was at the Cloverdale Hunt German. By request from Mason, Coleman Stratton, Mr. Gerry's counsel and that of the Fifty-eighth National Bank, accompanied him. I have it from Pietro that the conference ran up to midnight, and that half of the books in the private office were on the floor in the morning. At twelve o'clock Marcus Gerry sent a telegram to his brother, saying to go ahead as Mason had directed. Pietro took this telegram to the Western Union office on Broadway. When he returned, he passed Marcus Gerry's carriage leaving the house.

So the Gidcon sign arrived in Boston before it was required. I know accurately what followed. On Monday morning, Winfield Gerry went to the banking-house of Egan Bedford & Company and explained to Mr. Bedford what he wished to do, as Randolph Mason had directed. Bedford requested Gerry to return the next morning. He then called up the Fifty-eighth National Bank by telephone and inquired about the checks. The bank replied that Winfield Gerry had no deposit there, but that it would guarantee the payment of his checks up to three hundred thousand dollars, and to send it all the checks together by Adams Express at the close of banking hours on Saturday. Bedford replied that this arrangement was satisfactory; but he required it sent to him by cipher telegram and also by letter, which was accordingly done. The next morning young Gerry presented his checks, which were

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cashed. This he continued to do, until on Thursday evening he had drawn out two hundred and ninety-seven thousand dollars, and had paid all the creditors of his father's old firm of Gerry & Bedford, including the two hundred thousand of debts which he had personally assumed. On Friday he closed his office in Boston and came to New York, the most puzzled man who ever entered the Borough of Manhattan.

Saturday evening, the banking-house of Egan Bedford & Company sent the bundle of checks to the Fifty-eighth National Bank of New York. This bank refused to pay the checks, and returned them. Mr. Bedford came at once to New York. He could not understand this refusal of the bank to pay the checks, but he was not alarmed; he held the guaranty of the bank in writing; it was one of the wealthiest financial institutions in America; it was as solvent as the Government. Some misunderstanding of a clerk was doubtless the explanation — at any rate, he was safe.

Mr. Bedford went to the bank upon his arrival, but got no explanation from any one of the clerical force. An explicit direction to refuse payment on the checks was all they knew about it. An effort to secure an interview with the President, Marcus Gerry, brought only an appointment for Mr. Bedford with the general counsel of the bank at the office of Coleman Stratton, on Broadway, at four o'clock.

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I was present at this conference at the office of Mr. Stratton at the invitation of Winfield Gerry, who called for me at a quarter before four. We walked over to the building. Young Gerry was amazed at the incredible situation. It was unbelievable all the way through. One dreamed of such things on occasion. But this affair had gone on in daylight. It belonged in Bagdad, yet here it was, on a Monday in January, in New York! He was under an almost breaking strain to see the close of it. We were taken at once to Mr. Stratton's private office. Egan Bedford and his counsel, Judge Hacker, had already arrived, and were conversing in low tones in a corner by the window. In a moment Mr. Stratton joined us. He was a clean-cut, gray man, radiating vitality.

"Gentlemen," he said, "can we not waive conventions and get at once to this matter?"

The two men at the window turned around in their chairs. Egan Bedford arose, came over to the table and put down a pack of checks. "I do not see why the bank sends me to a law office," he said; "I want the money on these checks."

"I believe," said Mr. Stratton, "that the Fifty-eighth National Bank held no deposit upon which these checks could be drawn."

A light of cunning came into Egan Bedford's face. "I know that," he said; "but the bank is better than any man's account. I made the bank stand good for the checks."

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"How?" said Stratton, and I thought there was the faintest shadow of a smile flitting about the corners of his eyes.

Bedford's broad face lighted with victory. He thrust his hand into the bosom of his coat, took out a letter and a telegram and spread them on the table. "There," he said, "is the bank's guaranty in black and white and yellow." Then he added, with a sneer, "I guess your bank's not broke; is it?"

The lawyer moved some papers until he found a printed statement. "The bank," he said, "has assets valued at thirty-five millions of dollars; its liabilities are some ten millions. That would be, I believe, twenty-five millions above insolvency."

"Then," said Bedford, "I want my money."

"Doubtless," replied Stratton.

Bedford exploded with anger. "I am tired of this damned nonsense!" he shouted. "If the bank won't pay these checks, I will sue it."

"Then you will lose," replied the lawyer quietly.

"Lose!" cried Bedford, "like hell I'll lose! The bank guaranteed these checks, I tell you. There is the guaranty; don't you see it?" and he pushed the papers across the table with his fat hand.

"I see it," said the lawyer; "but it is not worth filing room."

"What?" shouted Bedford.

"This guaranty of the Fifty-eighth National Bank," continued Stratton, "is utterly void."

Bedford plunged back on his heels like a man

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struck violently in the breast. He waived his fat arm at his counsel, whom he had hitherto ignored. "Judge," he gurgled, "Judge, do you hear that?"

Judge Hacker, whose knowledge of the law is said to equal that of any practitioner in New York, arose and came over to the table. He nodded to us, then he spoke quietly to his confrère in the law.

"Stratton," he said, "give me accurately your position in this matter."

Coleman Stratton touched an electric button, scribbled a memorandum on a scrap of paper, and handed it to the office boy who entered. Then he turned to Judge Hacker.

"This contract of the Fifty-eighth National Bank with Egan Bedford & Company is one purely of guaranty, and is *ultra vires* on the part of the bank. The Revised Statutes of the United States give a national bank no authority to guarantee the debts of another. A national bank, as you are aware, cannot exercise powers in excess of those conferred upon it by statute. Egan Bedford & Company and, for that, all persons equally with the bank are bound to take notice of the statute. The guaranty is void and the bank is not liable."

Judge Hacker listened attentively. "Have you the Revised Statutes?" he said.

"Yes," replied Stratton, handing him the volume. "Section 5136."

Judge Hacker opened the book on the table and began to read it carefully. In a moment he looked

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up. "Do you know of an authority construing this statute?" he said.

Mr. Stratton touched his bell, and the office boy came in with a copy of the "Federal Reporter." Stratton handed the book to Judge Hacker. "Page 925," he said.

Judge Hacker took the volume to the window and went carefully over the case. Egan Bedford followed him, peeping now over and now under his arm, as though the lawyer were examining some incomprehensible infernal machine. His face was tense.

The whole plan of Randolph Mason was now laid open. Plain, even to young Winfield Gerry. He slipped his hand into mine and wrung it.

Presently Judge Hacker closed the volume and returned it to the table. Then he spoke to Stratton. "You seem to be right about this," he said. "This decision of the United States Circuit Court of Appeals appears conclusive. The Fifty-eighth National Bank did not receive this money, and consequently it cannot be taken to be in the position of obtaining a benefit by its void act. This money was paid to Winfield Gerry, and not to the bank." Then he turned to Egan Bedford, "You will have to look to Mr. Winfield Gerry for the payment of these checks."

Bedford raised his arms above his head and dropped them with a hopeless gesture. "Sue him, sue that fellow!" he cried. "He is not worth a tinker's dam. He hasn't a dollar!"

Young Gerry took out his purse, stripped off his

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rings, unhooked his pearl pin from the tie and handed them to Bedford. "You are mistaken," he said; "here is quite an estate."

Egan Bedford struck the hand, scattering the articles over the floor. Then he seized his hat and bolted out of the room. Judge Hacker followed, but paused a moment at the door to offer an apology for the violence of his client and to bid us good-evening.

I looked around me. Young Gerry was gathering up his possessions, his hands trembling, but his face like the sun. The attorney standing by the table spoke the only word of comment. "Mr. Parks," he said, "will you present my compliments to Randolph Mason?"

For the legal principle involved in this story, see the leading case of *Bowen v. Needles Nat. Bank, et al.*, 94 Fed., 925.

CHAPTER II

MADAME VERSÄY

I WAS surprised on a morning in early February to find Bishop Simonton's carriage before Randolph Mason's house. I have known churchmen to appeal to Mason in desperate straits, perhaps upon a theory that one should try all temporal doors before knocking on the gates of alabaster. But that the esthetic and venerable Bishop of New York should require profane assistance was quite beyond belief. I pulled up short by my ancient friend, the crossing policeman.

"Scally," I said, "I believe the ravages of age are beginning to mark me. Can it be Bishop Simonton's carriage I see yonder?"

The great Celt rapped himself gently on the belt plate with his club. "Sure," he said, "it's not the ravages of age that's doin' ye any harm this mornin', Mither Parks. 'Tis his nib's wagon, all right."

"Some alderman must be squatting on the Church lands," I said, "to bring this good man out at a quarter before ten on a winter morning."

"Wist!" replied the Irish king half covering his mouth with his gloved hand; "'tis a woman." Then he crossed the street to stop a line of drays.

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The mystery was now beyond conjecture. I walked on slowly to the gate and up the flag-path to the house. Certain airy, nebulous conceptions had, from the pleasantries of early Italian letters and recent scandalous posters along the book stalls, presented themselves with piquant explanations. Within the house a second and greater surprise awaited me. Pietro met me at the door saying that Randolph Mason wished instantly to see me. I gave Pietro my coat and hat and went at once to the private office. My state of mental flippancy had little prepared me for the type of woman who arose as I entered. I have not seen her like in New York. If the word elegant were not so thumbed, I should write it here as descriptive of her — not in a tinselled or bedizened sense, but as the panther is elegant, as the red silken horses of a rajah are elegant. High breeding, down an immemorial line, produces such animals, time, through a hundred generations, carving carefully, like a gem engraver. Tall, supple and straight; the eye steady, calm, reserved, fearless; the nose straight and thin; the lips fine, delicate and resolute; the chin up; the black, glossy hair parted in the middle and brushed back. She was gowned in well-fitting black. This woman was perhaps fifty years old. I instantly fitted her into the frame of a casement window along the Battery in Charleston, or the white columns of an estate on the James. I bowed as she turned toward me. I think the statue of Nathan Hale, outside in the flurry of

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snow, would also have bowed had it been standing in my shoes. She did not speak to me at all, but waited in dignified silence for Mason to say what was necessary to be said.

Mason was standing by his table, tapping it impatiently with the tips of his long, sensitive fingers. I thought the lines along his mouth were broken a bit, his eyes a trifle warmer. But this was certainly a fancy, for when he spoke it was in his usual cold, even voice.

“Parks,” he said, “you must find a certain variety actress, calling herself Madame Versäy. She has in her possession a case of pearls belonging to Miss Caroline Pickney. She will demand ten thousand dollars in cash for the return of these jewels. You will say to her that Miss Pickney has finally arranged to pay her this money. That on the tenth day of February at ten o'clock, the vault officer of the Jefferson Trust Company, in the city of Richmond, in the presence of Miss Pickney here and you, will deliver to her ten thousand dollars in currency. She must bring with her the case of jewels and hand it over to the vault officer, who, upon the payment of the money, will give it to Miss Pickney. This Madame Versäy is said to be under the protection of one Robert Henderson, a police detective of New York. This person may also be present, if Madame Versäy wishes him to be. You will arrange for this purchase with Madame Versäy. You will then accompany Miss Pickney to Richmond and be present with

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her at the transfer of the money. Miss Piekney will personally attend to the other details of the matter."

When Randolph Mason had finished speaking, the woman picked up a long coat from her chair and began to put it on. I helped her with the collar of it. She thrust her black-gloved hands in the deep pockets, then she turned to Mason.

"These jewels were brought from India by my great-grandfather," she said; "they were worn by my great-grandmother at her wedding; by my grandmother; by my mother. Their value to me is beyond estimate. Still I do not wish to violate either the laws of Virginia or those of the United States in order to recover them. I do not greatly fear the laws of Virginia. It cannot be that my fathers have made laws that would permit a creature like this actress to retain my inheritance. But the laws of the United States are of the North; they may permit such things. I do not know. Federal judges in the South, it is said, are king's governors, often contravening, I am told, our wisest laws, our oldest customs, our most cherished ideas of justice. I do not wish to come into the presence of these overlords, nor to be subject to the impertinence of their attacks. I wish to be assured, Mr. Mason, of the entire safety of this plan."

Mason's face showed annoyance. "Madame," he said, "a rubber of whist could not be safer."

"Then," said the woman, "I bid you good-morning."

Madame Versäy

A little snow was falling, and I accompanied Miss Caroline Pickney to Bishop Simonton's carriage, tucked in the skirts of her great coat and closed the door. I think she must have taken me for a sort of upper servant, since she gave no evidence of my presence, except a stately nod at the carriage window.

Here was a fine bundle of mysteries, coupled with the direction of Mason to go out and find Madame Versäy. Find an unknown variety actress, only the devil's imps knew where. Such birds had no marked tree to roost in; besides, this person was probably Madame Gladys by now, or Estelle something or other. I could not go back to Mason for further light. He would stare at me and walk away. My directions were accurate: find Madame Versäy first and then go to Richmond.

I turned up the collar of my greatcoat, and went down for a conference with the omniscient Seally. I found him directing commerce with the gestures of a Roman prætor. I darted past the row of cabs to his island of safety and seized his hand. A moment later, when the tide had passed, he took my bill from between the fingers of his glove and held it under his broad thumb; then he smiled benignly.

"Misther Parks," he said, "'tis the speed limit you are after wishin' to exceed?"

"No," I said; "I am the King of the Golden Mountain on the quest of a fairy."

"Go along; you're foolin'," he said.

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“By no means,” I answered; “I want to find Madame Versäy.”

He whistled softly. “Madame Versäy, is it! ’Tis only the devil that knows where she is now, but where she’ll be at one to-night, ’tis Scally that knows as well as the devil. In a dago café on the Bowery, which is next door to Paddy Moran’s dance hall, she will be atin’ and drinkin’ and carryin’ on. She’s a bad one, this Madame Versäy. ’Tis back to the tall weeds your friend Scally would advise you to be goin’.”

At half-past twelve that night, I found Madame Versäy, and the café called “dago” by my friend Scally. It was a fragment of Paris, transplanted to the Bowery by Monsieur Popinot, an oily, obsequious little creature from the Montmartre. He came running out to the curb to bow me in — the coming of a hansom was an event. He enumerated his wares with true Latin enthusiasm. His caviare had arrived that very day. It was “magnifique,” and his wines! ah, monsieur, he alone in all this raw land had wines! His brother Anselem hunted France, nosed it, fingered it, tasted it, that he, Popinot might have champagne, fragrant like those little meadows nestling at the foothills of the Pyrenees. Burgundy, red like the poppies in the wheat fields of the Oise; and absinthe — here language failed him. He clasped his hands, “Ravissante, monsieur!”

Madame Popinot, who presided over the cash drawer by the door, beamed upon me as I entered.

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She was a daughter of the little shops along the Seine, fat and vigilant, knowing instantly if the newcomer had the price of a glass of wine in his pocket. A virtue of the highest order to her; doubtless the only one remaining.

I selected a little table by the wall, and, not wishing to be poisoned, ordered a bottle of Bass Ale and a plate of dry biscuits, wiping out Popinot's disgust with a generous tip. The place was evidently a Bohemian rendezvous of a low order. The atmosphere was a stench of tobacco and sour wine, the floor was freshly sprinkled with new sawdust. The chairs and tables were of metal. Iron alone could resist large primitive emotions when they got in action. The crash of an elbow, the heave of a heavy boot-toe, did not wreck a wire chair. It could be straightened presently in the crack of a door. The place was filling up with jetsam from the under-currents of New York. Gentlemen going swiftly down to the sill of the world, beasts coming up from it, got somehow into evening clothes, sat well together under Monsieur Popinot's many-colored lights. It was the depravity of Paris without a touch of its seductive ésprit. The naïve, mischievous greeting of the Moulin Rouge and the Folie Bergère, "*Je vous aime, donnez-moi cinq francs,*" was not here. This place was an oak for crows. I wondered on what limb of it perched Madame Versäy.

I was about to summon the good Popinot to my assistance, when a young man, very drunk, came in,

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accompanied by a woman in a superb opera coat. They took the table opposite to mine. The young man wore a soft slouch hat, which he promptly threw on the floor. Then he began to hammer on the table with the ferrule of his walking stick and shout, "Heah, heah, Popinot, you old dog, a bottle of Burgundy for Madame Versäy. It's the wine of love and laughter."

My eyes went instantly to the woman. She was a medium-size, conspicuous blonde, with a rather trim figure, excellent arms and throat, made the most of by a low gown of black velvet. Her complexion was the usual sort to be had from boxes and paint pots. Her mouth was a perfect Cupid's bow, and exquisite. Her nose was bourgeois, but not obtrusive and not bad. Her eyes, however, were utterly bad. They reminded me of cold tallow. Her bright yellow hair was coiled on the top of her head to give an effect of height and to lengthen her face. While her companion was unspeakably drunk, this woman was coldly sober. She constantly refilled the man's glass, but scarcely tasted her own. I was evidently spectator at the epilogue of a quarrel which Madame Versäy was striving to drown in the mixture of alcohol and claret that Popinot sold for Burgundy. She spoke almost in whispers, but now and then the man broke out in a voice that I could hear.

"No, I won't wait no moah. I want them back. You said you only wanted them to star in. That's what you said; to star in."

Madame Versäy

Madame Versäy patted him on the arm and cooed over him, but her face was as cold as a wedge. The man harped on the one idea. "No; I was drunk. Didn't I tell you I was drunk when I did it? and they've got to go back to her."

Madame Versäy suddenly changed her tactics. She leaned over, seized the young man by the collar and shook him. What she said I could not hear, but the effect on the drunken youth was marked. He pleaded in blabbering slobbers: "That's all right, you keep them; they're yours. You dissolve them in vin'ger and drink 'em like Cle-patra. You're good lil' thing, you're a good, lil', sweet thing."

The man's drooling grew gradually inarticulate, his head wobbled. Presently he made an ineffectual effort to pat Madame Versäy's porcelain cheek, and fell forward with his arms outstretched on the table. Popinot's Burgundy was indeed distilled from the poppies of the Oise!

The woman ordered a tumbler of whisky and drank it like water. My hour had arrived. I arose and threaded a way to her table.

"Have I the honor," I said, "to address Madame Versäy?"

A furtive light came into the cold, tallow eyes. "Not so loud," she said. "Are you a plain-clothes Johnnie?"

I assured her that I had attained to no such dignity as that. I was merely one coming under a flag of truce with a message from Miss Caroline Piekney.

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I said this over several times and in a variety of ways before Madame's suspicions were soothed down. Then I laid before her the offer to pay ten thousand dollars cash for the jewels. A clean cut trade and no questions. The money in her hands for the jewels in ours. I did not go further into the place or details of payment, that would better follow a little later on.

"I'll stand for that," said Madame Versäy, "if it's straight goods; but you will have to show it to Henderson. If he don't flag it, the old hen can have her shiners."

I wondered mildly if we might find Henderson somewhere.

"Sure," said Madame Versäy. Then she summoned Popinot. "Call up Henderson's Detective Agency," she directed, "and tell Bobbie to chase in here."

While we awaited the chasing-in of Bobbie, I drew the celebrity out a little on the subject of the slumbering youth. He was an only nephew of Miss Caroline Pickney and her half-brother, Bishop Simonton of New York. He was an orphan and a very ebon sheep. Having fallen a victim to Madame Versäy's charms, he had shouldered the onerous duties of an "angel," "burned his money," and finally "swiped" the jewels from his relative and bestowed them on this Dulcinea. These jewels Madame Versäy thought it advisable to retain, since the law could not "take a fall out of her" without

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"jugging" the youth. She appealed to me to affirm the moral soundness of her attitude in this. A poor girl must look out for herself.

I was spared the embarrassment of a decision on so vexed a question by the arrival of Bobbie Henderson. I was also glad of all the people in the Café la Lune d'Or when he came bursting in it. He was a person with a variegated waistcoat, many seals and yellow diamonds, and a face that would have convicted him before any jury in America without a word of evidence for the State. He sailed down upon me with the bluster of the east wind.

"Flash your star," he said, "or jar loose from the lady." His language was beyond me, but his manner admitted of no doubt.

Madame Versäy sprang up and thrust her elbow vigorously into the region of his diaphragm. "Cut it out, Bobbie," she said, "you ain't wise to the gent. He's no plain-clothes Johnnie. This thing's business."

Mr. Robert Henderson was illumined. He drew up a chair and expressed his desolation at the error. Then the three of us got down to the details of Madame Versäy's "business." The offer to pay cash was pleasing to Mr. Henderson. It "sounded good;" but he would take no chance on a "double cross" being "handed out." The money must be paid in his presence at a bank. No "meet me under the oak tree" for him. He was "onto" the iniquities of the human family.

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By gradual, indirect suggestions, I uncovered the plan to pay at the Jefferson Trust Company in Richmond under his eye. He took to that. It was "the old hen's nest" to be sure, but doubtless the only place where she could gather up so large a "wad of dough." And thus, after many glasses of vile brandy, which, on my part, I managed to tip out deftly into the sawdust, we got the "business" closed. Mr. Robert Henderson nearly crushed my hand at parting. It was so rare a thing, he said, to meet one of his "kind of gentlemen" nowadays. Madame Versäy beamed, and we parted in genial fashion.

I had a word with Popinot at the door, after oiling the itching in his palm with a silver dollar. "Poof!" he said, Madame Versäy was less French than his café cat. She was born in Harlem under a shamrock. She had heard him, Popinot, name the divine Versailles in a flood of longing for his native country. The name pleased her; she implored him to say it again and yet again, until she got it and so came "Madame Versäy." "Mon Dieu! one's sides split themselves with laughter. A grisette named for a palace. Monsieur Villon never did so excellent a naming. *La demi-monde, l'édifice publique*, one saw instantly the fitness of it." He, Popinot, was a genius of the first order.

And so I left him, shaking in the door, and calling upon Olympus to send down his meed of bay-leaves. Incomparable Popinot of the Golden Moon!

Madame Versäy

Shortly before ten o'clock on the tenth day of February, I walked from my hotel over to the Jefferson Trust Company in the city of Richmond. I was taken at once into the vault of the safety deposit boxes, where I found Miss Caroline Pickney and the vault officer, Mr. Montague Thomas. This young man greeted me courteously, but I had only another stately nod from Miss Pickney. She would never come to understand the social order of a commercial civilization. One who took directions from another, no matter in how exalted a sphere that other sat, was a variety of servant. It was the theory of the slave master bred in deep, and persisting after the decadence of the civilization that produced it.

Promptly at ten, Mr. Robert Henderson arrived. He wore a large checked ulster, a top hat and astonishingly yellow gloves. He greeted me as a lost neighbor discovered in a distant country, shook vigorously the rather limp hand of Mr. Montague Thomas, but went back on his heels before Miss Caroline Pickney. She did not see him, she never saw him.

I appreciated the need to get the matter speedily over, and requested Mr. Henderson to allow Miss Pickney to examine the jewels. He threw open his ulster, revealing a small leather handbag, secured to his waist by a chain, such as is used by bank messengers. He opened the bag and took out an ancient black leather case, which he also opened and held in his hand. In it, lying coiled up against the lining of

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old purple velvet was a pyramid pin, two drop earrings and a strand of oriental pearls. Miss Pickney expressed satisfaction to Mr. Montague Thomas and directed him to open the safety deposit box. The young man fitted the key into the lock of box number 320, and drew down the door, showing the little steel vault packed with banknotes. He took out the money in packages each enclosed by a printed slip, such as are commonly used by banks, and marked "Two thousand dollars."

Mr. Robert Henderson handed me one end of the jewel-case to hold, and, with his free hand, he stowed these five packs of bills into the little handbag. When he had the last one safely in, he relaxed his grip on the jewel-case, locked his handbag and hurried out of the bank. I handed the case to Miss Caroline Pickney. She opened it and caressed the jewels lovingly. But she said no word, and gave no evidence of the great emotion tugging at her except the trembling of her hands. Then she put the case in her bosom and went down to her carriage in the company of Mr. Montague Thomas.

I went out behind the pair of them. Not in all my life had I been so thoroughly puzzled. What did this woman need with Randolph Mason if she intended to pay a painted actress the full value of the jewels. Any police-sergeant could have done as well as he. What need was there to send me scouting into the Tenderloin and then here? The thing was idiotic. I had been waiting to see the iron lid of some hidden

Madame Versäy

trap fall swiftly and crush Madame Versäy. Instead, I had carried out Mason's directions to the final letter, only to see the money paid, the incident closed, the thing ended. For Randolph Mason it was not a defeat only, it was a capitulation, a rout. His standard had been dragged off the field by a variety actress and a red-light detective. I was unspeakably bitter and depressed.

My train to New York left over the Southern at twelve o'clock. I would go to the post-office for some letters sent after me, get a little lunch and hurry out of this unfortunate city. This capital of a phantom empire was historic of disaster. Reputations were always laid by the heels here. I went into the post-office, got my letters, and was coming out when a deputy marshal touched me on the elbow and asked me to come up to the district-attorney's office. I knew then that Mason's trap had sprung, and I hurried with the little man up the iron stairway.

Mr. Robert Henderson was boiling in picturesque expletives when I entered the ante-room of the prosecutor for the Government. His collar was wilted down, his wonderful waistcoat crumpled, tiny threads of perspiration lay along the fat folds of his chin. He broke out louder when he saw me. "That's him. That's one of the gang," he shouted. "Now get the other one. Get this Caroline Pickney woman, and we'll land them in the penitentiary."

At this moment, a tall, gracious man with a soft, drawling accent that purred dangerously like a cat's,

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appeared in the doorway of the district-attorney's office. "May I inquire," he said, "who it is that is about to send Miss Caroline Pickney to the penitentiary?"

"It's me," said Henderson. "Her and this yegger have been shovin' the qucer."

"Your language is unintelligible," said the man.

"Why, green goods," growled Henderson. "Passin' counterfeit money, that's what I mean."

It was my turn to be astonished. So the packs were counterfeit! Surely Mason could not have made so dangerous a blunder. He knew the laws of the United States. He could not have opened the doors of the penitentiary wider to us. The mere possession of counterfeit money was a crime. Perhaps he did not believe that Madame Versüy would dare come to the officers of the law with it. Perhaps some other arm of his plan had broken down. I was amazed and alarmed. The man in the door looked inquiringly at me. I took out my card and handed it to him. He bowed. "I am the district-attorney," he said. Then he spoke to the deputy marshal. "Go outside, close the door and see that I am not interrupted." He turned then to the detective. "Now, my man," he continued, "what is all this furore about?"

Henderson gave the matter swiftly in detail, translating his Tenderloin terms as he proceeded. When he had concluded the narrative, the district-attorney asked to see the money. Henderson un-

Madame Versäy

locked his satchel, took out a pack, stripped off the gum band at either end of it, and, holding the end of the pack in his fingers, shook out the bills before the district-attorney.

The lawyer had been listening with the closest attention, his face clouded and distressed. Now, it cleared like a summer morning. "Are the others like this?" he said.

"The same," replied Henderson, "a good tenner on the top and bottom and the rest queer."

"Then," said the district-attorney, "the laws of the United States have not been violated. These bills are not counterfeit."

Mr. Henderson mopped his wet face. "What!" he ejaculated. "It ain't good money; is it?"

"No," replied the lawyer; "it is not money at all."

Astonishment drove Mr. Henderson to his primal tongue. "Hell, man!" he said. "'Taint good! 'Taint bad! You're stringin' me."

The district-attorney was amused. He took the pack of money and spread it out on the table. "These," he said, "are bills of the Confederate States of America. They are in no sense counterfeit. The passing of these bills for money of the United States is no crime against its laws. The Federal Courts have time and again so decided, although these bills closely resemble certain bank-note issues of the Federal Government and have been more than once complained of by the Treasury Department."

Then he added, with a courtly bow to Henderson,

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“My dear sir, you have in your hands the promise of a vanished republic to pay you some ten thousand dollars. Once upon a time, these bills might have purchased you an excellent lunch and perhaps a cigar with it. I doubt it a little, now. You might try Moseby Taylor on the corner below. Mention Jubal Early.”

Then he turned to me. “Mr. Parks,” he said, “as you have not these potent tokens of a great sentiment to assist you, I must beg the honor of your presence at luncheon with me. I have heard of Randolph Mason.”

For the legal principle involved in this story see *United States v. Barrett*, 111 Fed., 369.

CHAPTER III

THE BURGOYNE-HAYES DINNER

THE dinner given by Mrs. Burgoyne-Hayes to Prince Edward of Hesse Mechel-Schweren will be always remembered by New York. The proud old dowager cut Society like a butcher. The list was a streak of blood. No massacre of King Philip's war ever left such savagery skulking in the bushes. The terrible old woman openly declared that she intended to give New York the bayonet, as her great relative did in 1777.

I shall always remember this dinner for another reason. It was the first appearance in America of Beatrix Waldo after her marriage with Captain Gordon Smith of his majesty's lines in South Africa. There were a lot of floating, disconnected rumors about this marriage. Beatrix certainly posed as an heiress before the Englishman went under the yoke, and we got the impression, doubtless directly, that he had a large estate somewhere on Loch Codan, five thousand pounds, at any rate, over his pay. Then we heard later on, through Jimmie Dale, I think — he always knew the foreign gossip—that the Englishman did not have a brass farthing over his pay, and was rather worse off than that by a fat budget

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of debts. We knew that Beatrix had no income to speak of — her aunt kept the gown-makers going for her. There were wild lands, back inland somewhere, that Beatrix used to turn in to oil, coal and spruce lumber when she got to dreaming, but the over-drained old aunt used to pay taxes on them, and I think that was about the only reminder of the fortune that ever came along to New York.

I had Sarah Lemarr on my right at this dinner, and, fortunately, an impossible German person on her right, who kept his nose well in his wines and pâtés. I wanted to ask Sarah Lemarr about Beatrix, and was glad of the Teuton's exclusive interest in his stomach. I shared a rather general curiosity. The Englishman was here with Beatrix, putting in his leave of absence. If they mooned for vanished Eldorados, one saw no tear-stains of it. I thought the pair of them at the far end of the table looked happy enough, pretty comfortable for disillusioned fortune hunters. Presently I got Sarah Lemarr to myself, and was about to inquire into the mystery when she took the very subject from the tip of my tongue.

"I have been hoping for a word with you, Courtlandt," she said; "it's about Beatrix Smith. She needs your assistance."

"I am not a divorce lawyer," I said.

"Nonsense, Courtlandt," she answered; "they love each other. They are lovers. Can you gather the significance of such an undreamed of ending to

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the effort each of them made to marry a fortune?"

"Then," I said, "Beatrice cannot need assistance. Poets tell us that lovers do not dwell in this land of trolley ears and spindles, but somewhere on blessed islands they are happy."

"But, my dear boy," said Sarah Lemarr, "one might take a stone bruise or a thorn in the thumb even on a blessed island."

"Not so," I answered; "the Well at the World's End is there, and whosoever tasteth thereof shall be perfect as his dreams are perfect, and around and all about this land Lethe, the River of Oblivion, rolls its watery labyrinth. Nay, do not interrupt me; the human heart longs with a longing that cannot be uttered for this enchanted country where, you tell me, Beatrice walks with her Englishman."

"Well!" said Sarah Lemarr. "Who is the girl, Courtlandt?"

"There you go," I said, "demonstrating the greatest unwritten truth about a woman; namely, that every reflection arises from a personal experience. If one deplures sin, he has robbed his employer in his youth; if one apostrophizes love, he is about to marry Miss Jones of Forty-eighth Street. The girl in my case, dear Madame von Hubert, is that mysterious fairy-woman, daughter of Abu Jaffer, surnamed the Victorious, second Caliph of Bagdad under the dynasty of the Abbassides, asleep on her silk carpet in Arabia."

Here the impossible German person interrupted to

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inquire if I thought the truffles were canned. I did not think they were canned, and he was content; but the moment gave Sarah Lemarr a lead and she seized it with the practical directness of a New Bedford skipper.

"Now, Courtlandt," she said, "be sensible. Beatrix needs forty thousand dollars."

"How original of Beatrix," I replied. "Most of us need only a couple of hundred."

"If you are going to be nasty about it, Courtlandt," she said, "I shall never speak to you again. You must help Beatrix to find this forty thousand dollars. The poor girl is dreadfully worried about it. You see, Courtlandt, when the two of them awoke after the honeymoon to find their estate all Castilian haze, instead of a conventional separation they fell in love with each other like a couple of Breton peasants. Beatrix told me all about it; she is lovely. She does not want the money for herself; she wants it to pay Lieutenant Gordon Smith's debts. When his debts are paid, he will be made a captain and transferred to his old regiment in India. Beatrix adores India; she is quite content to go out there and live quietly on a captain's pay, and love her big Englishman and be happy. But she wants his debts cleaned off; 'his honor untarnished,' she calls it. It seems to mean a lot to her, and she is so absurdly in love with the tall soldier that it is enough to break a body's heart. Now, Courtlandt, where are we to get this money for her?"

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"Unfortunately," I replied, "I do not at this moment think of a convenient orphan to rob. How would it do to rifle the poor box at St. Thomas's?"

Sarah Lemarr ignored my second offence after the manner of a woman, and, likewise, true to the same manner, gave the remainder of the story after having asked a decision in the midst of it.

"You remember Beatrix owned several thousand acres of forest land, back somewhere in the Alleghanies, in some county of the Virginias. Let me — see, she said the name had been a fortunate one for the first Captain Smith in America and ought not to fail the second one."

"Pocahontas," I suggested.

"How stupid!" she said. "Of course, Pocahontas. Well, some lumber company has managed to steal half of Beatrix's land, and it, and some other rival companies, now want to buy the remainder of her. They will give twenty thousand dollars. They have been dogging her footsteps ever since she landed in New York. But this is only twenty thousand and Beatrix needs forty. If she could get back the land which has been stolen, it would bring the other twenty thousand. I don't know how they managed to get it. Beatrix has the whole story in detail, with maps and so forth. I think she failed to pay the taxes at some time and they stole it that way. Now, Courtlandt, you must induce Mr. Mason to get Beatrix's land for her. She is stopping with me, you know. Bring him to my house to-morrow for dinner.

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Lieutenant Gordon Smith is going to Washington to-morrow to call on the British Legation and will not return until very late; but he knows nothing about it. Beatrix is the business agent for the pair of them."

I smiled at the artlessness of Madame von Hubert. "Certainly," I said; "but why not bring the man in the moon, too, and the Witch of Endor. Randolph Mason is hardly the sort of person that goes out to dinner."

"Well, then," said Sarah Lemarr, "bring him after dinner. I will write him a little note."

I could have laughed in the girl's face. "What will you say in your little note?" I inquired.

"Oh, well, what any one would say," she answered, "that I wish to see him on an important business matter."

"And do you know," I said, "what would happen to your little note?"

"What would happen to it?" she said. Her chin went up. She was a social overlord, this Madame von Hubert. Her invitations were commands. The social aspirant dreamed of their coming, as of that of Abou ben Adhem's Angel.

"This would happen," I answered. "Randolph Mason would rip open the envelope with his long finger, fold back the paper where you had creased it across the middle, and drop it into the waste basket."

A red flush sprang up along her dog collar of diamonds. I hurried to explain. "I beg your par-

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don," I said; "but you must think of Randolph Mason as you would of an eccentric scientist,— Darwin or Agassiz — an intellectual recluse without emotions, a sort of Hindoo ascetic of a high order. You could not write any of these such a note; neither could you write such a note to him. Now, there is a sort of note which you might write to any of these, and you might try such a note on him, although I have little hope of it."

Madame von Hubert's head was still in the air. "You mean," she said, "such a note ought to run, 'Will the ogre kindly meet a kissable fairy on the north side of the hawthorn thicket at moonrise?' I believe your scientist, no matter how old, usually comes out of his shell for that sort of thing." But she could not keep her exquisite good-nature under a bushel for long. She began to laugh. "Really, Courtlandt, to be serious, what ought I to write him? We must have his help for Beatrix."

"The sort of note," I said, "that you would write to a famous archæologist, if you wished him to call and examine a rare Egyptian pot, or to a numismatist if you possessed a coin of the time of Cyrus, or to a bacteriologist if you had a culture of the bubonic plague for him. Invite him to the examination of a case of rare and interesting injustice, at your residence on Eighty-sixth Street at nine o'clock to-morrow night."

I was going on to explain about this note a little in detail, but the impossible German suddenly realized

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that he ought to talk, and at once set about it with the persistence and regularity of a man filing a saw. We resisted as long as we could, and then gave it up for another Sedan. We were rescued finally by Madame Castaigne, who gave some fragments from Molière. I tried to get a further word with Beatrix Smith, but Mrs. Burgoyne-Hayes descended on me.

"I must present you to the Prince, Courtlandt," she said. "Your great-grandfather on your mother's side, I think, was a soldier of our King George."

"Yes, madam," I said; "but the Grand Duke of Hesse-Darmstadt drew his pay."

I did not see the note which Madame von Hubert wrote to Randolph Mason; but it was effective. He requested me to return after dinner and accompany him to Eighty-sixth Street. The von Huberts have a residence on Eighty-sixth Street. We arrived there on the hour and were shown into the library. Randolph Mason at once sat down in a heavy black oak chair before the fire. This chair was a massive and curious piece. It was carved by the peasants of the Black Forest for the Baron's grandfather. The tortuous shapes forming its arms and legs are like the gargoyles to be seen under the roofs of castles on the Rhine, and now and then in Paris.

I was impressed by the picture of Mason in this massive chair. His long, sinewy fingers gripping the writhing features of the hideous oaken monsters, his face thrown partly into shadow by the flaming logs on the hearth. The masterful iron face, the lean,

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hard jaw with its projecting chin, the fearless, bony nose appearing in the fantastic light flattened a little at the end, like that of a beast of prey, and the raggy forehead — all colored, browned, reddened by the fire.

I heard the latch of the door eliek, and looked up to see Beatrix Smith standing on the threshold, looking at Mason with profound interest. Her lips were parted and her eyes wide. She had not thought to come on this curious picture of the middle ages taken down from some Italian gallery and propped up here in the library of the von Huberts. She bowed to me, crossed the room and sat down by the library table a little beyond Randolph Mason, at the corner of the fire.

Presently Mason looked up at her. "Is this Madame von Hubert?" he said, without rising, without an inflection of interest or courtesy, as he would have said: "Is this the contract?" "The bond in question?"

She flushed a little. "No," she answered; "I am merely the interesting case that you came to examine into."

"Give me the details of it," said Mason.

She began at once without introduction or verbiage, and told her story with a brevity and directness that I could not associate with that rather silly Beatrix Waldo who used to go up and down through the drawing-rooms of Newport looking always for a rich husband.

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She had inherited from her father two thousand acres of wild forest land in the County of Pocahontas in the State of West Virginia. She and her aunt had watched it carefully and paid the taxes on it each year; they had even taken the little local newspaper, published at the county seat, in order that they might know what lands were returned delinquent for taxes and sold. They had been warned against the horde of dangerous and unscrupulous land thieves said to infest the mountain districts of the Virginias. But her great care was not sufficient against the ingenuity of these pirates. After one of the periodic assessments of real estate, one thousand acres of her estate were listed on the land books under the name of Walden, returned delinquent, and sold for taxes. The land was purchased by Gilbert Williams, president of the Black Creek Lumber Company, for \$36.85. She had paid no attention to the sale, not recognizing her land under this name until she came to have the estate surveyed a few months ago, some five or six years after its purchase at the tax sale by Gilbert Williams. She also learned that the whole thing was a well-planned and effective scheme of this owner of the Black Creek Lumber Company to steal her land. These wild lands had vastly increased in value.

This company and a rival one, the Export Spruce Company, were exceedingly anxious to purchase the remaining tract. They would give, she thought, twenty dollars an acre for it. The agents of the two

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companies had been at her heels ever since she arrived in New York. Gilbert Williams was now at the Fifth Avenue Hotel. He had endeavored to reach her by telephone this very evening. He offered a little better price than the Export Spruce Company, but he could well afford to, since he it was that had stolen half the land. The agent of the Export Spruce Company was at the Holland. His note, on the table, requested an interview with her at any hour she would name, day or night. This indicated how very desirous they were for the land. Such a sale would yield her twenty thousand dollars. All the lands would have given her the forty thousand which she needed. Her name now was Beatrix Smith; she had married Lieutenant Gordon Smith the year before. He was in Washington to-day, but would return before eleven o'clock this night.

That was the whole history, brief, accurate and devoid of superfluous comment. She had there on the table the original deed, maps and tax receipts.

Mason's face showed marked annoyance, as that of an eminent surgeon would, who, having been sent for in hot haste, arrives to find the patient with a bumped nose.

"Why do you send for me?" he said; "any lawyer could adjust this problem."

"It is vital to me," replied the woman, "it means my happiness and my husband's career. I beg you to help me."

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Her eyes began to fill up and her lips trembled with distress.

Randolph Mason gave no attention to the woman's emotions. He sat, beating the tips of his fingers on the arms of the chair, with evident annoyance.

"Let us get the thing over, then," he said. "Call up this man Gilbert Williams. Say to him that Mrs. Smith has determined to sell the lands; ask him to come here at once with a notary."

"What!" cried Beatrix Smith, "sell the land to Williams? the man who robbed me! How can that help?"

"Madam," said Randolph Mason, "do not worry me with petty bickering."

I signaled Beatrix Smith to a conference with me in the hall. "Do exactly as he says," I whispered when we were outside the door, "and hurry."

She promised and went swiftly up-stairs to the telephonic.

In a very few minutes Gilbert Williams arrived. He was a red-haired old fellow with a face like a fox, and beady eyes set obliquely in his head. Randolph Mason arose when he came in, and explained that as Mrs. Smith wished to leave America at once, she had determined to sell her lands, provided cash was paid. The lands were worth thirty thousand dollars, but her husband was absent and could not convey his curtesy in the deed. She would therefore take twenty thousand cash and make a deed on the spot. Gilbert Williams snapped up the offer. He did not care any-

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thing about the curtesy of the husband. The land itself was worth nothing, the timber only was valuable. His mills would cut it off in a year, and he was willing to take the chance of Mrs. Smith's living that long. He produced a deed, which he had brought with him to New York, and ran a pen through the blank which it contained for the husband's name. Beatrix signed the deed, and the notary who accompanied Williams filled in the acknowledgment and affixed his seal in proper form.

Gilbert Williams wrote out a check on the Importers Bank of Commerce for twenty thousand dollars. We ascertained by telephone to the cashier at his residence that the check was good. Williams then folded his deed, put it in his pocket and departed with the notary. The whole matter had taken less than twenty minutes to bring to a close.

Randolph Mason inquired at what hour Lieutenant Gordon Smith would arrive, and was told that he would be at the house at half-past ten. "Direct the agent of the Export Spruce Company to be here at that hour," he said. Then he sat down in the oak chair before the fire.

We were all greatly puzzled. We did not see why this second purchaser should be invited to come. Beatrix Smith had nothing more to sell. The transaction seemed to us to have arrived at its final act, the curtain down and the lights out.

Sarah Lemarr came down to the hall and peeped through the door at Mason, where he sat motionless,

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his right elbow on the twisted arm of the grotesquely carved chair, his clenched fingers propping up his jaw.

"O Courtlandt," she whispered, "he is splendid! I think Lancelot must have looked like that when he sat in Arthur's double-dragoned chair to umpire the last tournament. Just fancy, with what freezing, acid irony he would have said, 'Hast thou won?' 'Art thou the purest brother?' to such an unconscionable rake as Tristan." Then she swore Beatrix to obedience and slipped back up the great stairway.

A few minutes after ten o'clock, Lieutenant Gordon Smith arrived, and, a little later, the agent of the Export Spruce Company. Mason arose when this agent entered, and explained, as he had done to Gilbert Williams, that Mrs. Smith was about to sail for England, and had decided to sell her land. She would take twenty thousand dollars in cash for it, the deed to be executed and the money to be paid down. The agent agreed at once, and produced his deed. He was prepared as Williams was. Mason directed Beatrix Smith and her husband to execute the deed. I had no end of trouble with Beatrix in the hall this time. She did not want to make another deed; she had sold her land; she would not rob the Export Spruce Company. It was not the company that had stolen her land; Mr. Mason had clearly gotten the two companies confused. He was making an awful blunder. I must call him out and set him right about it.

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Instead, I called Sarah Lemarr. She berated Beatrix like a pirate. Disobey Randolph Mason? the thing was unthinkable! Make a mistake? not that big, fine, bronze god brooding by his sacred fire. "Why, girl," she said, "I would shoot every one of you in your tracks if that man told me to do it. He is adorable. I could follow him around like a dog and bite people if he whistled to me. Not another word out of you, or I will come down with the dog-whip." And she shook her little clenched hand over the banisters.

Finally we got the matter over. Beatrix and her husband executed the deed. I got a notary from the Plaza. The agent gave certified drafts on Dexter & Company for the twenty thousand dollars, and, like Gilbert Williams, folded his deed and departed.

Beatrix Smith bearded the lion with eyes swimming in tears. "Mr. Mason," she said, "you have made a terrible mistake. The Export Spruce Company is not the one who stole my land. I cannot take its money; it will not get the property." And she went on with a torrent of lamentation.

"Madam," said Mason, rising, "all this is drivel. I have made no mistake. The Export Spruce Company will get every acre that it has this night purchased." Then he directed Beatrix to cash the checks at the earliest hour in the morning and sail at once for England.

When we went down the steps to his carriage, Sarah Lemarr slipped out from behind the door and

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caught my arm. "I shall see to it," she whispered. "They shall sail on the St. Paul at eleven o'clock." Then she gripped me until her nails hurt through my sleeve. "Oh, Courtlandt," she said, "I have at last seen a man!" and she closed the big door behind me.

The solution of the matter arrived a month later. I was taking a hasty lunchcon at a down-town café, when Freddie Harland of the firm of Milton, Harland & Gaynor, came in and seated himself in the chair beside me.

"Hello, Parks," he said. "Old Williams tells me you were present when he bought a gold brick the other night."

"You mean the Smith deed?" I said.

"Well, rather," he answered. "Williams took it down to West Virginia to have it recorded, and discovered, to use his spectacular language, that it was not worth 'three hurrahs in hell.'"

"What was wrong with it?" I said. "It did not convey the husband's curtesy, I know; but Williams knew that too. He did not care for that, he said; he could cut the timber off in a year and he was willing to take the chance of Mrs. Smith's living until then."

"That," replied Freddie Harland, "is a mere bagatelle in the trouble. It seems that the Supreme Court of West Virginia has decided that a deed made by a wife, in which the husband does not join, con-

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veys no estate of any character whatever, is merely a worthless piece of paper. The Export Spruce Company has the land under a proper deed. Mrs. Beatrix Smith has vanished into the fog beyond Fire Island and the bob-cats have preëmpted old William's mills."

"Good," I said, "good! Gilbert Williams stole half that land, so the chicken is home to roost."

"We reminded him of that," replied Freddie Harland, "when he began to jump around in the office."

For the legal principle involved in this story see Austin et al, v. Brown et al, 37 W. Va., 634.

Syllabus, Austin et al v. Brown et al, *supra*. "M. A. B., a married woman, not living separate and apart, but with her husband, undertook by deed . . . to sell and convey a certain tract of land, part of her real estate . . . *Held*, said pretended deed was wholly ineffectual to divest M. A. B., the grantor, of her ownership of such land, and did not pass any interest therein, legal or equitable, to the said grantees."

CHAPTER IV

THE COPPER BONDS

I KNEW that Jean Balduc was from the far North the moment Pietro brought him in from the door. There is a close-sitting air of the provinces on all those who come from there into New York. The smartest tailors, the most Parisian modistes cannot dislodge it. It is the atmosphere of his own land minted into the man, lying deeper than the cut of his coat. I put Jean Balduc up in British America — his big, lank, hard body belonged in the open, a rugged, roomy, primeval open. His light-blue eyes were from remote spruce forests reflected on the glimmering snow-crust. His hair was that blue-black which the French carried for violent contrast into the white North. His manner and speech were abrupt and direct.

He demanded an audience with Randolph Mason. I tried first to get a little history out of the big fellow from which to determine the advisability of such an audience. I got only a few craggy fragments. He had come to New York to even up a score with Barnsfield, the copper emperor on Broadway.

He wished to get at the man within the purlieu of

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the law, if such a thing was possible. If not, he knew another way, very common in his country and direct — and, if not productive of monetary results, at least the balm of Gilead to one's injured sensibilities. He had some other business to settle with Barnsfield (not his own affair) which would require dancing-steps and truce flags; but, when that was cleaned up and ended, it would be the Indian check on the stock of the Winchester and all white flags down.

I took him to Randolph Mason, and he told his story, walking up and down the length of the room and driving, now and then, his clenched right hand into the palm of his left for emphasis. He was from Huron County on the south shore of Lake Superior. Earlier he had come from the Jacques Cartier River in the Dominion. He had been a factor in the affairs of Huron County; he knew every man, woman and child in it, every tract of land, every nook and corner of it. Three years before he had made a house-to-house, man-to-man canvass of the county for treasurer, and got it, with a majority to spare. He had gained, too, the good-will of the people, their confidence and their hospitable friendship. Then, like the locusts of Biblical record, came the emissaries of Barnsfield to purchase the mineral rights under all the lands in the county.

It was not known that there was any copper in Huron County. Indeed, eminent geologists and practical prospectors had long agreed that the

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county was barren. These emissaries of Barnsfield explained that he was not misled about the sterility of the land. He knew that he was paying out good money for worthless rock, clay and gravel; but his plan was to corrupt the prospecting engineer of the Great Lakes Railroad Company — have him secretly report to the company the existence of copper in this county. Then he, Barnsfield, would come generously forward and offer to transfer to the railroad the entire mineral rights of the county, provided the company would build a line through it to his wharf at Plymouth on the south shore of Lake Superior. This would enable him to load ore from the known copper regions directly on cars from the Lake boats at Plymouth, and shorten the haul to his market by two hundred miles.

This story was gladly swallowed by the natives. They hoped for the coming of a railroad into the county, as the advent of a sort of commercial Messiah. Once or more they had voted large bond subscriptions to lure in such an enterprise, but it was of no avail. Lake Superior remained the only path of commerce.

In a few months these agents had obtained the mineral rights of almost the entire county. A few land-owners along the Lake held out against them, and finally, after exhausting their ingenuity, Barnsfield's men came to Jean Balduc for assistance. They explained that these land-owners were blocking the prosperity of the whole people. The only chance

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of an iron highway to the south was being elbowed out.

Balduc said he would go to these men and induce them to join in the sale, if he were assured from headquarters that the railroad plan would be carried through. They took him to Duluth, and to Barnsfield. He had the plan from Barnsfield's mouth. He was shown maps and profiles of the proposed route, elaborate plans and specifications of a great wharf and warehouses which Barnsfield expected to build at Plymouth when the railroad came, drawings for an addition to the town — indeed, all the paper details for a city. Balduc was introduced to the engineer of the Great Lakes Railroad Company and read his report.

Barnsfield talked very frankly. His plan was not philanthropic. He would get back his money in a year from lessened shipping rates from the Lakes. At present, his ore was at the mercy of one line; a rival would mean competition and a fair tariff; it would make his town of Plymouth a commercial center on the Lake, and this would bring large profits to him. He did not want Jean Balduc's assistance for mere good-will. He was quite willing to pay a thousand dollars for each land-owner whom Balduc could induce to sell, the money to be paid when his deeds were made to the railroad company. The strength of the plan lay in having the entire county in shape for direct transfer to the Great Lakes Railroad. So large a bait could not fail of success, nor

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was there any moral wrong in foisting these worthless mineral rights on the company. The directors of it were notorious land thieves; a hair-shirt was due them.

Jean Baldue was convinced and elated. He would gladly have lent his aid to the scheme without compensation, out of interest in the people of the county; but here was Barnsfield about to reap enormous sums from the venture, and he might as well have the money which was offered. They agreed, then, that Barnsfield should pay him one thousand dollars for every land-owner who made a deed for the mineral rights under his land, the money to be paid when the transfer was made by Barnsfield to the Great Lakes Railroad Company. There were thirty-four of these men.

Baldue's popularity, the reputation he had established with the people and his prestige as county treasurer gave weight to his words. He went back to his people, assured them that he had investigated Barnsfield's plan and that it would certainly be carried out. He had seen the very surveys for the road, the estimates, the profiles. Finally he secured the deeds of nineteen of these recalcitrant land-owners. The others could not be induced to sell. Barnsfield marked their names off his list, expressed himself satisfied with the matter and put all his deeds to record. The county, now at the gateway of its fortunes, rejoiced. A great mass meeting was held in the court-house; a vote of thanks was awarded Jean

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Balduc; he was carried to his home on the shoulders of his admiring fellows; tar-barrels were burned on the hills; horses were paraded; the local papers ran their election roosters and eagles.

Then came the gray morning, and the gradual rising of the sun. The minions of Barnsfield vanished. Months passed, and no engineer of the Great Lakes Railroad sighted his transit into Huron County. No carts were trundled across her rivers, no Italian came to make a footpath for the iron beast; but, instead, a little man in spectacles arrived from Marquette and staked out a shipping wharf at Plymouth for the Lake Shore Steamship Company. To inquiries he replied that Barnsfield wished to take the copper out of Huron County, and the Steamship Company must have a wharf from which to load it. Copper! The county sat literally with its jaws agape. But was this merely another subterfuge of Barnsfield? It was not. A little later a well-known superintendent from the regular mining region came with workmen and uncovered the copper-bearing strata. It was copper territory! The whole county richer than the Indies!

Jean Balduc stopped here in his narrative, drew down the muscles of his face until his eyes narrowed to pale slits. He crushed and ground the flaps of his coat pockets in his big hands. His mind was evidently crammed with incidents—vivid, crowding incidents: A flood of indignation poured over Jean Balduc. He was cursed, waking and sleeping, as

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with a Roman anathema. Even Barnsfield, chuckling in his den in New York, goaded him. He would pay the nineteen thousand dollars when the deeds were transferred to the Great Lakes Railroad Company — if he were living then.

Exile was the only solution. Jean Balduc determined to close up his affairs as treasurer of the county, come to New York, collect from Barnsfield the twenty-eight thousand dollars which he owed Huron County for taxes on his mineral rights, transfer it to the county, and then settle his own affair with Barnsfield. After that, if he got away, he would go back to the Jacques Cartier River; but he would likely not get away.

“Have you seen Barnsfield?” said Randolph Mason.

“Yes,” replied the man; “I went to him yesterday to collect these taxes, and he tried to beat me even on that. He was hard up, he said, he had no ready money; but he would give me bonds of the Empire Copper Company if I would take these bonds at par and turn over the tax receipts to him. I refused, and he asked me to come back to-day at one o'clock.”

Randolph Mason turned to me. “What are these bonds worth?” he said.

“They are not listed on the Stock Exchange,” I answered; “but there is a curb market for them at seventy-five cents.”

Randolph Mason walked over to the window and

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stood looking out at the heavy snow-flakes driving against the glass. The big Northerner waited, but Mason remained motionless, his hands behind him. Finally, the man took up his hat and put it on.

"Well," he said, "is there any trail out?"

Mason turned abruptly. "Go back to Barnsfield," he said, "and take his bonds at par for the taxes. Mr. Parks will accompany you and write into the tax receipts that these taxes are paid in full by the delivery to you of the bonds, setting out the number and denomination, as you receive them. Give Barnsfield the receipts, and come back to me."

The man was aghast. "Why, sir," he said, "you cannot mean that! I would be a damned fool to do that. The county would be losing ten thousand dollars to take the bonds at par."

"Obey me," said Randolph Mason, and he turned back to the window.

"All right," said the big fellow, "you're the doctor. What you say goes, but it certainly does sound damn fool."

I went with him to Barnsfield. We crossed the snow-clad street, walked in under a gigantic granite arch and took a steel cage to the twenty-fourth floor. A limp youth led us to the copper magnate in a wing of the building above Broadway. Barnsfield was inclined a little to display in his setting. There was a silk Oriental rug on the floor, on the walls were rare prints, with here and there a gross imitation of a

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master. Barnsfield evidently took his art as prescribed by the foreign agents. The only table in the room was a huge piece of shining mahogany heavy with carvings in atrocious taste, the sort of thing which the full pocket gets when it leaves its selection to the dealer. Behind it was Barnsfield. I got the impression of something cold and pudgy, when I looked at him. A like impression awaits the spectator before the glass box at the end of the line in the National Aquarium at Naples — a deep-sea thing in a nest of weeds.

He was a tall man, fattened out of shape, fat crowding his eyes back, distending his jowls, sagging his chin. His hair was light and thin, brushed smooth to his poll. His eyes were dull, the eyes which Victor Hugo warned against, the cloudy eyes covering mines, rifle-pits, trenches manned with cannon shotted to the muzzle and the fuse smoking. A fat hand, illuminated by a great Kafir diamond, flopped about on the mahogany table. He showed no apparent interest at the arrival of Balduc, but he was a bit uneasy over me. His fingers wandered to an electric button, the nails scratching the rim of it.

“Mr. Barnsfield,” began Balduc, “I came back about those taxes.”

Barnsfield looked inquiringly at me. “Yes,” he said. He wished to know who I was before his answers became more than monosyllabic.

“That’s my lawyer’s secretary,” said Balduc. “I have concluded to take your chips and whetstones.

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They are better than nothing; but I want Mr. Parks to look at them."

The explanation cleared Barnsfield's face. If Baldue was bringing Huron County up to be quietly sheared of ten thousand dollars, a lawyer's secretary, merely to examine the wording of the bonds, was a detail to be pleased over. He dived down into the drawers of his desk, fished out a package of bonds, and laid them on the table.

"Good five per cents," he said, "secured by a mortgage on all the copper properties in the county, including plants, tram-roads and improvements to be hereafter made. In six months they will be worth a hundred and twenty."

I looked carefully at the bonds. They were in the usual form of such securities, printed on bank-note paper, with a picture on the back of a huge copper pot, tipped over, pouring out a stream of gold pieces. They were of a first issue of the Empire Copper Company, limited to a million dollars, and in denominations of one thousand. I smiled at the confidence of Barnsfield. There were exactly twenty-eight of these in the pack. He had pinned them up for Baldue.

Barnsfield patted the bundle of securities with his fat hand. "There are the bonds," he said; "now give me the tax receipts signed by you as treasurer."

Baldue took a big leather pocketbook from his coat and handed me the tax receipts. I wrote into them, "Paid this day by the delivery to the Treas-

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urer of Huron County of twenty-eight bonds of the Empire Copper Company, numbered three hundred and fifty to three hundred and seventy-seven inclusive." Then Balduc signed them and handed them over to Barnsfield.

He placed the package in a pigeon-hole of his desk, and came up from behind it transfigured. The chill in the air was gone; the hidden ice-floes were melted; the low-lying fogs were golden in the sun. He had not imagined that the thing could be done so easily. He had looked for long wrangling, delays, a siege. It was like the answer to prayer put into one's hands while they were still clasped. One ought to go wreathed in smiles when events waited at one's beck so courteously.

He chortled softly in his throat when he was well back into his chair, and beamed on us; then he talked. He was glad to see Jean Balduc again, pleased to meet me. He was athirst for news from the copper land, aching with wonder about the inexplicable delay of the Great Lakes Railroad in building its line. It was his dearest, most closely cherished hope to see the citizens of Huron County wax rich from the development which he intended should be made on the south shore of Lake Superior. He hinted vaguely at large good fortune which the future held for Balduc, a future of which he, Barnsfield, was in some esoteric way the directing overlord. He wanted a long, intimate, personal talk with Balduc. He must come that night with him to dine, and I, too; he

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especially wished me to come. I had found favor in his sight. There would be only the three of us — his family was in Florida. It would be an informal, friendly dinner, but a good one; he would see to that. He would not be refused, his fat arms waved refusals into distant limbo.

I looked to see the deep fires in Jean Balduc break through; but he accepted the invitation on the spot for the two of us at eight o'clock that evening.

Barnsfield lighted us to the door with smiles, and there we left him, kneading his pudgy hands and thanking Providence that the human game, like no other, lacked instinct to protect it.

We went back to the office without a word. Randolph Mason looked at the bonds, and then directed me to go out and sell them for what I could get. I sold the bonds on the curb for seventy cents on the dollar and got the cash in large bills. Randolph Mason handed this money to Jean Balduc and told him to go back to the Jacques Cartier River. The man was puzzled and angry. Was this all that Mason could do — cause him to collect the taxes of Huron County at a loss of some nine thousand dollars, embezzle the money and hide out for the rest of his life? He could do better than that. The open way of the great North was a better one. He would send the money to Huron County; then he would go to Barnsfield's little informal dinner and square the account with him.

I came forward then, and begged Mason to explain

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what he meant by his plan. As the matter stood, Baldue could not do even as he himself suggested. He could not send the money to Huron County, and leave New York clear. The sum he had lacked nine thousand dollars of paying the taxes. He had surrendered and receipted for the taxes in full, twenty-eight thousand dollars. If he sent back nineteen thousand, he would be instantly charged with theft of the other nine. Explanations would hardly avail him. He would certainly be extradited and imprisoned.

Randolph Mason went over to a bookcase, got down a volume of Reports of the State of Michigan, and sat down with it between the two of us as a tutor might do with puzzled little boys. He read the case, marking with his finger in the book, very carefully to us. I saw instantly the intent of his plan, but he went on, explaining in lucid detail the effect of it on Baldue, on Barnsfield, on Huron County, the equities which it adjusted, the necessity of government which it imposed, the penalties which it evaded, and the ancient, correct, accurate doctrine of law upon which this decision of the Michigan courts is founded.

The tension in Jean Baldue's big body relaxed, the pressure in his face ebbed. He understood the whole scheme to the end now. I do not know of any emasculated language which could give the force and directness of Baldue's own words. He got slowly to his feet, stretched out his arms, filled his big lungs.

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"By God," he said, "you have got the fat thief on the cross!"

Then he turned to me. "Mr. Parks," he went on, "I suppose you despised me down to the ground when I agreed to eat with that puffy-throated viper; but I only wanted to get a last chance at him, to tell him what I thought of him, and then to jam his head on the table among his pots. We will go up there to-night, you and I. We will show him how he has caught his own legs in his man-trap. I will tell him some things which he needs to hear; but we will not eat with him. If I were starving in the snow-drifts of Hudson Bay, and he came to find me with a load from the Company store, I would not eat with him. I would eat; but I would kill him first.

Barnsfield, like every parvenu, wished to point out for our admiration all the treasures in his hideous, showy palace before we went in to dinner. The place might have been the storehouse of Kidd in the golden days of the Spanish Main. A carved wood ceiling from some château in Normandy, a marble vase from Sardinia, new Italian bronzes, old Dutch chairs mingled with Chippendale, Heppelwhite, and atrocious things in gilt, tables of the Empire beside Colonial consoles, Moorish corners with old arms, rugs, banners — all the indiscriminate loot of a barbarian with money-sacks.

I admired with discrete and evasive generalities. Baldue said nothing and finally we went in to dinner.

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I had not seen its like, except at Thanksgiving in a New England farm-house. A turkey on his golden back in a huge platter, a saddle of mutton, trussed fowls, food enough for a ship's crew, piled hot and steaming on the biggest table in New York. He explained that the servants wanted the evening off, and he had ordered the dinner put on so. We were men and would not mind that.

We sat down, and Barnsfield put his hands on the tablecloth, closed his puffy eyes, and made ready to invoke a blessing on his house.

Jean Baldue spoke then. "Mr. Barnsfield," he said, "I am sick."

Barnsfield sprang up, got a decanter of brandy from a sideboard and set it down by Baldue. "There," he said, "that'll fix you."

"No," said Baldue, "nothing will do me any good but to get outside in the air."

Barnsfield started toward a door. "Come right here," he said, "on this balcony."

Baldue got up then. "No," he said, "I will go out into the street with Mr. Parks; but, before I go, I want to hand you this six hundred dollars that I owe you," and he took a roll of bills from his waistcoat pocket and laid them on the tablecloth.

Barnsfield saw instantly that some climax had arrived, but what he did not know. He came back and sat down in his chair.

"What do you mean?" he said.

"I mean," replied Baldue, "that I got only nine-

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teen tracts of land for you in Huron County, so you owe me just nineteen thousand dollars. You paid me to-day, nineteen thousand, six hundred, which was six hundred too much."

Barnsfield's face began to pale. "I don't understand," he said. "I paid the taxes to you. I gave you twenty-eight bonds for them and got the receipt. I did not pay you; I paid the taxes."

"Yes," said Baldue, "you thought you paid the taxes; but you didn't. You paid me. The bonds brought nineteen thousand, six hundred dollars. I give you back the six hundred now, and our account is square."

Barnsfield got up. "I paid the taxes," he said. "I got the tax receipts."

"No," said Baldue, "taxes can only be paid in money. That's the law. You can't pay taxes with property. Your tax receipts are not worth hell-room. They acknowledge the payment in bonds."

Barnsfield turned to me. "What's all this rot?" he said.

I got up then, and walked around the table. "What Mr. Baldue has said," I answered, "is quite true. Taxes can be paid only in money. If one owing taxes delivers property to the tax-officer for them, he does it at his own risk. He does not thereby pay his taxes. If the tax-officer keeps the property, the other must repay the taxes in money. The State accepts only money for taxes."

"It's embezzlement of taxes," cried Barnsfield.

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"If I have to repay them, he'll have to go to the penitentiary!"

"No," I said, "it is not embezzlement of taxes. It is not any crime at all, for the reason that the tax-officer is authorized to collect only money. He has no authority to receive property. Property, if delivered to him, is at its owner's peril. He is not chargeable with embezzlement if he appropriates this property to his own use, nor are his bondsmen liable for it, because they guarantee only a proper accounting of money which the officer receives as taxes."

Barnsfield jumped up and started toward a little telephone at the corner of the sideboard. Baldue darted across the room, smashed the telephone with his knuckles and confronted Barnsfield.

"Sit down, you puffy varmint," he said. "Into your chair with you!" And, seizing the man by the shoulders, he whirled him around and forced him down into his chair. Baldue stood over him a moment, his fingers working with restrained savagery. His jaws clamped; his eyes narrowed to a thin line of blue. Then he turned to me. "Let us go," he said, "before I tramp the creature's face out of shape on the floor."

We left Barnsfield, wheezing with excitement, his breath gone and his fat hands wabbling about on the arms of his chair.

In the street, Baldue took a deep breath and shook himself like a dog coming out of a slime-vat. "I had to get out of there," he said, "or kill him."

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Good-by. If you ever need a slave with ten steel fingers, send word of it to Jean Balduc on the Jacques Cartier River," and he was gone.

I took a hansom to the Dresden for a little dinner.

For the legal principle involved in this story see *People v. Seeley*, 117 Mich., 263; 73 N. W. R., 609.

A collector of taxes can receive nothing but money in payment of taxes. If he receive property in lieu thereof and appropriate it to his own use, he is not guilty of embezzlement, and his bondsmen are not liable.—*People v. Seeley, supra*. A collector of taxes can receive nothing but money in payment of taxes.—*Miller v. Wesener*, 45 W. Va., 59.

CHAPTER V

THE DISTRICT-ATTORNEY

ONE of the most disastrous bank failures in the history of the middle West was that of the Patton National Bank of St. Louis. It took down with it almost every one of its correspondents — the Exeter Trust Company especially, and Blackwell's Bank, one of the oldest in the Mississippi Valley. Its New York correspondent, the Amsterhof National, sent West a half-million dollars in gold that never returned to its money vaults. The bank was closed by the national bank examiner on a Saturday afternoon, a few minutes before three o'clock.

I was in the Stock Exchange on Wall Street the next Monday, following the fluctuations of some St. Louis securities which the Patton National had been instrumental in placing in New York. It was an ugly morning for anything west of the Ohio. I came out of the Stock Exchange at two o'clock disgusted with securities. The Astors were the longest-headed financiers after all. The earth alone was secure.

As I went down the steps into the street, an old man came out from one of the exits of the gallery to the Exchange and spoke to me. "Is this Mr. Court-

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landt Parks?" he said. I replied that it was, and hurried on up the crowded street. I was not in a very pleasant mood, and he was evidently a provincial out to see the horned and hoofed beasts of which he had read in his weekly newspapers. He followed me, however, and when I reached the crossing on Broadway he was at my elbow.

I spoke to him then, a bit impatiently. "May I inquire," I said, "who it is that honors me with so close an attendance?"

The old man hesitated a little. "I am Jeremiah Patton," he replied, "the president of the Patton National Bank of St. Louis. I want to see Randolph Mason."

I turned squarely upon him, with no effort to conceal my amazement. He was a tall old man with close-cropped gray hair, mild brown eyes and a kindly mouth. His face was wan and colorless, and one of his legs dragged a little when he walked. I could not stop there on that crowded corner to converse, even with a Magus, although I should not have been more disturbed had I met one of these fabled wise men.

I took him with me to Randolph Mason's house. I wished to hear his story, to learn the details of the failure. The newspapers were not a little puzzled over it; the bank had seemed prosperous, without a shadow upon it, up to the very day it was closed by order of the comptroller of the currency. Banks do not commonly drop, some fine morning, suddenly

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into ruin; whisperings go, usually, before destruction.

I was a bit doubtful of the identity of the tall old man until I saw him bare-headed, without his great-coat, in a chair by the fire. Then I instantly recognized him from the newspapers cuts, which represented him seated by a table; but he was more impressive, stronger in this pose. His forehead was broad, his head big and well-covered with thick gray hair; but the face, as I have said, was gaunt, the eye-pits and cheek-bones showing the first ravages of disaster.

His story, told to Randolph Mason in a voice that broke now and then and was pieced out with desolate gestures, presented a situation, in my opinion, beyond human agencies to correct. The matter had proceeded too far. Events, arising in orderly, in infernal sequence, had entirely overwhelmed him. It was a case of a patient brought, as a last resort, to the specialist after the death rattle had started in his throat.

Jeremiah Patton was seventy-five years old. He had made a fortune as a wholesale merchant, and had retired from active business late in life, with a reputation established throughout the West for fair dealing and highest integrity. He had no family, his wife having been dead for twenty years. It had appeared to him that by establishing a bank, he could usefully employ his wealth, so he had erected a modern office building on a good corner, and founded the

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Patton Savings Bank, of which he was president and almost the exclusive owner. His object was to encourage a spirit of thrift among the middle class of the city, and his method was to allow his depositors every cent that their deposits earned, less the fixed charges of the bank. His own capital yielded a sufficient income for his needs.

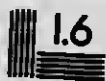
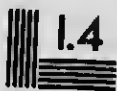
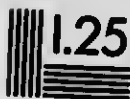
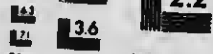
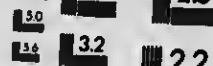
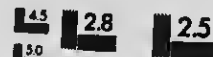
The bank quickly sprang into prominence. Its deposits were enormous. Its president found himself under a heavy burden of care and responsibility in the investment of these large sums so they would yield a substantial profit.

About this time, Belmont Lane, the American president of the Russian Oil Company, came to St. Louis to acquire, if possible, the producing territory of Missouri, and to establish banking relations. Lane was a man of courtly address, imposing presence, and charming personality. He very soon was on intimate terms with Jeremiah Patton, and he suggested a consolidation of several smaller banks with that of Patton, and the founding of a national bank. This plan was carried out, and the Patton National Bank of St. Louis was the result, Patton advancing sufficient money to acquire the major portion of the stock, while Lane carried, through various employees of his company, a nominal interest. He, therefore, did not appear on the books as an owner of any stock, and his name was in no way connected with the institution. He explained that because of the wide financial relations of the oil company it would be unwise to con-



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neet his name with any one bank, since, should the company want to borrow money, he would be asked why he did not get it at his own bank.

Jeremiah Patton remained as the president of this new institution and its nominal head, although its active affairs and virtual control passed into the hands of a board of directors selected from the associates of Belmont Lane.

The old man halted a little in the march of his narrative, searching if he could bring into more vivid outline the figure of Belmont Lane. This man's real character was still a mystery to him. The clue to his charming, persuasive, dominant personality eluded him when he tried to embody it in words. It always so eluded him, he said, when Lane was not before him. In the man's absence, his influence was naught; before one's face, it was irresistible. When Belmont Lane urged a plan, it seemed at once practicable, alluring, filled with promise. He made men gaze with him from his own window, and out of it all things looked good. So, when Belmont Lane suggested a sub-company with an enormous paper capital to acquire leases in Missouri for the Russian company, he readily induced Jeremiah Patton to assume its presidency and to hold in his name almost the entire stock. Again, Lane was not of this company; a few of his employees stood in the charter with Patton, and made a board of directors which revolved around Belmont Lane's finger, as the bank did.

One fine morning, while Mr. Patton was in Chi-

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cago, the sub-company borrowed two millions of dollars from the Patton National Bank on its note, with its stock as collateral. Ten days later, the National Bank Examiner condemned this loan and declared the collateral worthless. A further examination of the bank's accounts showed extensive overdrafts of the sub-company hidden under dummy notes. The bank was insolvent, and the examiner closed it at the direction of the Federal authorities at Washington.

The assets of this sub-oil-company proved utterly worthless. Belmont Lane could not be found. He was thought to have returned to Russia. Jeremiah Patton was utterly ruined. But this was not the worst feature of the situation, the incensed public demanded that some one be punished for so great a swindle. The newspapers instantly erected a guillotine, and found no head to place under it but that of Jeremiah Patton.

At this point in his story the old man arose, took several newspapers from his pocket and spread them out on the table. Their headlines clamored like fishwives for Jeremiah Patton's arrest.

"You see," he continued, "I was president of the company which wrecked the bank, and its greatest stockholder. My coming to New York will be considered as a flight from justice. I can hardly hope to reach St. Louis unaccompanied by a United States marshal. I am certain to be indicted by the next Federal grand jury, and certain to be convicted."

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Randolph Mason was standing by the fire, his shoulder leaning against the mantel, his arm extended along it. He began to examine the old man with sharp, searching queries — not as to the details of the story he had just related, but with respect to the personnel of the Federal court in his city.

The old man replied that both the judge and the district-attorney were products of a recent political upheaval in his state. The former United States judge, a man in but middle life, had died suddenly the previous September. The present judge, more a politician than lawyer, had yielded an election to the Senate in order to obtain this life appointment to the bench. He was generally regarded as an honorable man, but one not greatly learned in the law.

The district-attorney was a man named Stetheimer, elevated to his position as a reward for conspicuous party service in the last national election. He had organized a certain large element of the city, and held it until a bargain was struck for this position. The man was ambitious and hungry to be rich. The position of United States district-attorney carried with it a general practice of the best value in the Federal courts. This practice Stetheimer was anxious to secure. Jeremiah Patton had heard this criticism of him. Some editors of opposite politics had even accused him of seeking the civil business of large corporations under a veiled suggestion of protection against the rigor of certain Acts of Congress.

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Mr. Patton thought these corporations were principally distillers, manufacturers of tobacco, and, especially, beef and pork packers, who were said to be constant violators of the interstate commerce laws. Still, the district-attorney was reputed to have great influence with the new judge. His advice was usually followed with respect to the conduct of trials. The common impression was that the judge, not yet familiar with the Federal procedure, assumed the advice of the district-attorney to be correct. The district-attorney was successfully posing as an able lawyer, while, in fact, he was an obscure practitioner of indifferent learning. This was the gist of all that Jeremiah Patton had heard about this court.

Randolph Mason took his attention from the mantelshelf and turned to the banker. "You will at once return to St. Louis," he said. "Employ the best counsel you are able to obtain. When you are indicted, insist upon an immediate trial; oppose every delay, no matter how favorable it may seem to you. Object to it, and put your objection on the record. When you are acquitted ——"

The old man interrupted Mason with an appealing protest. "But I won't be acquitted, Mr. Mason," he said. "Stethheimer will arrange his jury for that, if it is necessary. But he won't have to arrange it. The people are mad for a sacrifice. A jury could not be got that would acquit a bank president under such circumstances. Belmont Lane has brought me up to the door of the penitentiary. The United

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States court will put me inside and turn the key in the lock."

Randolph Mason paid not the slightest attention to the man's words. He merely repeated the last sentence of his statement.

"When you are acquitted," he said, "you will come at once to me, and I will adjust the remaining features of this problem."

Jeremiah Patton returned to St. Louis on that very evening, and I followed the order of subsequent events in the newspapers of that city. The Federal court was at that time opening its session. An indictment was found. Patton's attorneys demurred to this indictment. This demurrer was overruled. They then demanded an immediate trial, and the court ordered the case to a jury. Two weeks were consumed in the examination of talesmen; new panels were obtained and almost wholly rejected. It seemed that every man in the city had conceived an opinion against the prisoner. Finally a curious medley of jurors was secured, and the Government began the introduction of its testimony.

Up to this time, Mason had done nothing. Now he sent for Jacob Solmeyer, a lawyer of considerable prominence, and explained to him what he was to do. I know in detail how Solmeyer carried out his instructions: He went at once to St. Louis and called on the district-attorney. He explained that certain large operators of Chicago and Kansas City were laboring to effect a consolidation of all the big beef packers

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in the West into one gigantic company with a hundred million dollar capitalization, under the laws of New Jersey; that the latter was still in an early, formative state. The bankers who were to furnish the large sums necessary to purchase such plants as would not voluntarily come into the trust, feared that some Populist district-attorney might attempt to bring the matter into court, and thereby affect the bonds of this syndicate, which they would hold as their security. If, however, the principal office of this great projected company could be placed in some large city of the West, where the district-attorney of the United States was a person of conservative ideas, they would furnish the money; otherwise they would not. Solmeyer represented these bankers, and this was the problem they had presented to him for solution. He had gone carefully over the entire field, and finally settled upon the district-attorney of St. Louis as filling every requirement of his clients. If he could act, Solmeyer would pay him five thousand dollars as a retainer; then, when the bankers held their meeting in New York, he could come before them and arrange about his annual retainer. The size of this annual retainer Solmeyer hesitated to suggest, but intimated something in the neighborhood of twenty thousand dollars.

The district-attorney glowed with joy and increased importance, put the five thousand dollars in his pocket, and Jacob Solmeyer returned to his office in New York.

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The trial of Jeremiah Patton continued. All the affairs of the bank were gone into. Masses of documentary evidence were introduced. The district-attorney was determined to make his reputation on this case. He burned with dramatic pose every piece of red fire that he could lay his hands on. The court-room swarmed with reporters. The evidence was printed in detail in all the great dailies. Patton was depicted as an intolerable scoundrel who had wrecked the bank of which he was president, and looted his depositors by borrowing on worthless securities great sums for a company which he owned.

On a Saturday afternoon, the district-attorney closed for the Government and rested his case. On the following Sunday, Jacob Solmeyer telegraphed the district-attorney that there would be a meeting of the bankers on Tuesday evening, and to come at once to New York. Stetheimer called Solmeyer by long-distance telephone, explained his situation in regard to the Patton trial, and asked if the meeting could not be postponed. Solmeyer answered that a postponement was impossible, that some members of the syndicate were the heads of great banking houses in Europe and could not await any man's convenience; that the district-attorney must attend the meeting, or return the retainer paid to him and abandon the scheme.

Uncertain what course to follow, the district-attorney took counsel with his wife. She advised him

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to get rich while he could, while the winged hand of opportunity was reached out to him. Money was the only actual power that could be stored away against the time of need. Everything else was like fairy gold — yellow oak leaves on the morning after. Still, Stetheimer feared to abandon the case to subordinates and go out of St. Louis. He would be open to the charge of having been purchased by the defendant; besides that, the assistant district-attorney would step up into his place before the public eye. He must find some other way.

In his extremity, he determined to apply to the judge for a postponement of the trial until the next term of court. This would give him an opportunity to meet the bankers in New York, and still conduct the case. He went at once to the judge and explained that he had just discovered a possible connection of several other prominent persons with the wrecking of the Patton National Bank, and that, before he cross-examined Jeremiah Patton, he wished thoroughly to investigate this evidence and fortify himself with all the details. This would take considerable time. Stetheimer strengthened his suggestion with excellent arguments — it was a matter of the greatest public importance; thousands of helpless depositors relied wholly on the courts to insure the fidelity of their bankers; swift, complete, ruthless punishment of every person involved, high or low, was their only safeguard. He wished to ferret out every one of the criminals concerned, to run them

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down, brand them as thieves, and hand them over to the warden of the penitentiary, and the judge must give him ample time in which to do this. In fact, it was a duty owed to the whole people of Missouri. The judge decided finally that, if these were the facts, he would direct a continuance upon the motion of the district-attorney.

Stetheimer went then to the attorneys for Jeremiah Patton. He said to them that his wife was ill, threatened with appendicitis, it was thought; that he wished to take her at once to Philadelphia; that he would probably be required to remain there during the operation and the convalescence of the patient, and requested them to consent to a postponement of the case until the following term. The attorneys courteously expressed their regret, but replied that this was a criminal trial, and that they could not consent to any order, no matter what. Still, they could not see how their client would be prejudiced by such a continuance, and if the judge wished to enter such an order, they would make no vigorous oral argument against it.

When the court convened on Monday morning, the judge made the continuance upon the motion of the district-attorney. This motion was not strenuously resisted by the counsel for Jeremiah Patton. They offered a formal objection for the prisoner, which was overruled, and the exception was entered on the record. The judge discharged the jury, ordered a new panel and took up the trial of some petty revenue

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cases, the assistant district-attorney appearing for the Government.

Stetheimer explained the meaning of this continuance to the newspapers by covertly suggesting the story told to the judge. The public was appeased with the promise of more and prominent victims, and the district-attorney stood justified in the conduct of his case. Moreover, his reputation for shrewdness was established, and his figure as a far-sighted, incorruptible public servant on the trail of higher thieves lengthened, widened, loomed larger. He left immediately for New York accompanied by his wife, who was taken to the station in an ambulance.

Jacob Solmeyer arranged a meeting of some of the more prosperous looking of his clients and took the district-attorney before them. They discussed the problems of the great combine, questioned the lawyer at length upon the status of their rights under the Interstate Commerce Act, the possibility of a Federal investigation, the effect of such a move on the bonds of the trust as a security, and the scope of the act in its criminal features.

The district-attorney slurred over the difficulties in the Federal statute, pointing out that the section providing individual punishment for violation of the act was already a dead letter, that the act itself was largely a bugaboo to appease the agrarian. He urged the combine and promised immunity in Missouri. Solmeyer's "bankers" adjourned without finally determining upon the loan to the packers.

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However, they agreed to employ the district-attorney, in case the loan was made, and to pay him twenty-five thousand dollars a year. Solmeyer gave the man an additional one thousand dollars, and he returned to St. Louis.

On Thursday morning Jacob Solmeyer reported to Randolph Mason, and told of the transaction in detail. He was puzzled to the finger tips and curious to know Mason's object. But he was a man of discretion, aware of the value of silence and the folly of any query put to Randolph Mason. His theory was that Mason wished to make a case against the district-attorney looking to his removal, and in test of this theory he ventured to present his report carefully in writing, attaching to it a sworn stenographic report of the district-attorney's speech to the "bankers," including his offer of protection against the Interstate Commerce Act.

Randolph Mason tossed the papers into the grate when Solmeyer had finished, concluded the conference, and dismissed him.

In the hall the old German blinked behind his thick glasses. "Mein Gott! Mr. Parks," he said, "vat does Randolph Mason mean? He pay tix thousand dollars to get der district-attorney on record, den he burns der record."

"Solmeyer," I replied, "I do not know who was the man in the iron mask. I do not know what melody it was the sirens sang, neither do I know what Randolph Mason means."

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The old man shrugged his shoulders, spread out his hands as though before an impenetrable enigma, and went down the steps to his hansom.

And yet I was not in the least puzzled. I thought I saw clearly into the solution of it all. Mason's ruse had failed — that was the reading of the riddle. He had planned to lure the district-attorney out of St. Louis and thereby cripple the prosecution; but the shrewdness of the man had forstalled him. Mason had warned Patton to oppose a continuance; he evidently counted upon his counsel to resist with such vigor that the court would go on with the trial; he had not dreamed of a mere objection on the record. The plan had gone to pieces. At the next term, Patton would be tried and convicted. A weakling out of Israel had overthrown Goliath of Gath in his brazen helmet.

I had just pieced out and rounded up my theory as the correct solution of this otherwise inexplicable side-play, when Randolph Mason came out of his room, walked past me in the hall and started up the stairway. He stopped on the third step and looked down at me.

"Parks," he said, "go out to St. Louis at the next term of the court, and move it to discharge Jeremiah Patton. On your table is a citation to the only case you will require." Then he went on up the stairway, his hand sliding along the mahogany rail.

Thus my theory, like that of Jacob Solmeyer, was snuffed out. . . .

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My train to St. Louis was eight hours late because of floods in the Ohio valley. The case of Jeremiah Patton had been called for retrial when I finally reached the United States court-room. The building was packed with spectators. The district-attorney was inside the rail with a bright new rosebud pinned to the lapel of his coat. The prisoner looked tired out and very old, a wretched, pitiable figure, seated by the table with his attorneys; the clerk was calling a jury. I spoke to the elder of the defendant's counsel, giving him Randolph Mason's directions and the reference. He immediately sent a page into the library for a volume, ran his eyes over the syllabus of the case, and at once arose.

"If it please your honor," he said, "I move the court to dismiss the prisoner."

The judge looked up from his calendar. "Is this a dilatory motion, Mr. Scott?" he said. "If so, it may be overruled."

"This is a motion in the nature of a plea in bar," replied the lawyer.

The judge was not interested. He was becoming familiar with the ceaseless clutching of criminal lawyers at every straw. He turned to the representative of the Government. "Mr. District-Attorney," he said, "do you wish to argue this motion?"

"No," said Stethheimer, "let us get on with the trial."

"Then," said the judge, "I presume that it may be overruled."

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The counsel for Jeremiah Patton was posing a little for dramatic effect. He held up his hand. "Just a moment, your honor," he said; "this question has already been decided in Missouri." He walked over and laid the open volume on the bench.

The judge glanced at the statement of the case, then he turned to the opinion. Apathy faded from his face; the muscles of his jaw grew compact; he settled down in his chair to read the case carefully to the end. Finally he rose and looked a moment over the court-room; then he said,

"I sustain your motion, Mr. Scott."

The great audience stirred with profound, universal surprise. The district-attorney was on his feet. "Your honor," he cried, "this prisoner cannot be discharged. He is under indictment. He has not been tried. The case has been merely continued. There must be an acquittal by a jury. A judge cannot turn a criminal loose on society by a royal edict."

The lines along the judge's mouth curled. "Have you read this decision?" he said.

"No!" shouted the district-attorney, now angry and alarmed; "but it cannot annul trial by jury; it cannot unhinge the gates of our penal institutions; it cannot transform a presiding judge into Cæsar, holding the issues of life and death in the turn of his thumb. What court would pronounce a decision holding that a continuance of the cause should have

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the effect of a trial by jury, a verdict of not guilty and a discharge of the prisoner!"

"Sir," replied the judge, "you inquire what court would pronounce such a decree, and I reply the United States District Court for the Western District of Missouri. It holds in the case before me precisely what you say it could not hold, namely, that a postponement of a case and the discharge of a jury, after the introduction of the Government's evidence and over the objection of the prisoner, without proper reasons therefor, is, in effect, an acquittal, precluding a retrial and working the discharge of the prisoner. Jeremiah Patton has been put to trial, the evidence against him was introduced; then, upon the motion of the district-attorney, without any reason given on the record, and over the prisoner's protest, the case was continued and the jury discharged. These facts here are in accordance with those in the case cited. The decision of the associate court is not to be disregarded, and the prisoner must be set at liberty."

The judge paused a moment, took up the volume of reports in his hand and looked down at the packed sea of faces. "It would be folly," he said, "for me to do other than sustain this motion. The United States Circuit Court of Appeals would immediately reverse me. The Government would be put to the expense of a useless appeal, and I would be subject to censure as an arbitrary public servant, disregarding the doctrine of law established by an associate

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court. By curious accident, this prisoner steps outside the power of the law through one of the numerous safeguards which our judicial system throws around a citizen charged with a crime. We do not know whether or not Jeremiah Patton is guilty as charged in this indictment, no jury has decided that; we know only that the law directs that he be discharged from custody, and I so order it."

On Monday morning after the acquittal of Jeremiah Patton, Pietro handed me a cablegram for Randolph Mason. I tore it open and went into Mason's office with it. He looked up from the table as I entered. "Parks," he said, "I am ready to adjust the remaining feature of this bank problem."

"Mr. Mason," I answered, "do you know where Jeremiah Patton and Belmont Lane are today?"

"Yes," he said, "Patton arrived in New York last Friday night and Belmont Lane is now in the custody of the United States consul at Berlin."

"Mr. Mason," I replied, "for once in your life you are mistaken."

"Mistaken!" he said, "I mistaken?"

"Yes," I said; "you are mistaken. Jeremiah Patton is dead at the Dresden of pneumonia; I came this moment from his bedside. Belmont Lane shot himself in the entresol of the hotel Gross Herzog von Wildenheim in Berlin at seven o'clock Sunday morn-

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ing, when confronted with your writ of extradition," and I handed him the cablegram.

For the legal principle involved in this story see *Ex parte Ulrich*, 42 Fed., 587. This case was afterward reversed by the United States Circuit Court of Appeals, but not upon the proposition of law here dealt with.

The law as laid down in the case of *Ex parte Ulrich, supra*, follows the best courts in this country. See *Highlands v. Commonwealth*, 111 Penn. St., 1; 56 Amer. Rep., 236; *State v. Calendine*, 8 Iowa; *Wight v. State*, 5 Ind., 292; *Mitchell v. State*, 42 Ohio St., 383.

CHAPTER VI

THE INTERRUPTED EXILE

WHEN the invitations to Emily Cruger's wedding at her father's country place on the Hudson arrived, every one knew what was going to happen — and it did happen. Horses were unharnessed, motor cars were ordered back into their garages, and we went up in the day coaches of a railroad special with a flurry of snow driving against the windows.

We were met at the little station shed by a row of closed carriages, jolted off to a village church and packed into tight little pews. There, if one were really an old and dear friend of the family and had known the bride since she was a tow-headed little girl in fluffy frocks, he berated old General Cruger as though he were a pickpocket, vilified Emily and damned the institution of marriage. Then we were whisked away in the snow-covered carriages to Cliff-court and luncheon. But, first, we piled our rubbers in an anteroom by the porte-cochère, passed in review before the old general, kissed the tips of Emily's gloved fingers, quoted to the groom the appropriate remark of Solomon, and then girded our loins to fight for a place by the General's fleshpots.

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Now it may be said that a well-ordered country wedding proceeds upon the lines of an English croquet party — you talk to your neighbor, if you like; eat whatever you can find to eat — and the devil take you. The host's social honor is a hostage for you. You may clap the man before you on the back and say how vile the punch is, or ogle the foreign bridesmaid until, with a delicious little shrug, she inquires of the fat dowager at her elbow, "*Qui est cet homme-là?*" and probably is told that you are the person sent up by the caterer to look after the plate. You have the freedom of the roof.

The east wind had desolated the general's garden as the mercenaries did those of Hamilcar, the hedges were aslant, the bushes broken, the early spring blossoms shattered. So much for those who sat a-planning in Phœbus's golden cart.

Fortune sat me down at luncheon opposite a man at whom I was very glad to have a look. Vague whisperings had linked his name with Emily Cruger's for many a long day. He had proceeded with his plans to win her with the deliberation of a Japanese field marshal. He had burrowed the land around her, probed it with trenches, planted it with mines, and then had sat down to wait with a sort of fatal patience. He was not attractive as men go, and his youth had been required of him, but he had the instinct of conquest. He believed that every door opened in the end, if one never ceased to knock on it. He had acquired a fortune by that theory, a great

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fortune. He would hammer his opponent year in, year out, always in the same weak place until he finally went down.

But women are not to be taken with a chain of forts. Love has had his magic carpet, his rope ladder, his fairy godmother, since time was. Any wise old poet could have told him that, and saved him, probably, these conspicuous mouthfuls of bitter bread.

The man was carrying on his face a courteous unconcern, but the enamel of it was set over savage lines. When, now and then, the genial lights went out of his face, one could see smoldering war-fires heaped up with red ashes. Under a black flag this man would have been relentless; he would have hanged his prisoners, burned the town and pistoled the women and children, if he found a war-ship penning him inside the bay.

Gossip had it that his plans for the housing of this wife were already carried out; the land for a mile farther up the Hudson had become the splendid, formal gardens of a French estate, the rising walls of the château loomed, a line of gray, on the bluff above the river. The great Oriental was making ready while he waited.

I had no opportunity to speak with him. Mrs. Chenley Gaynor, with a niece on the block, had him at her right. The practical old dowager was in every slave-market. She wanted a country estate, a town house and perhaps a yacht for her ware. Hu-

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man emotions had no value, the little maid in white went to the highest bidder. There she was. Step a little closer, gentlemen; not twenty yet, lifted but yesterday out of the gardens of a convent, sweet, innocent, fresh as a rosebud. How many sequins for her?

Any mother would have feared so dangerous a man, but not so Mrs. Chenley Gaynor. This freebooter was the richest on the seas, he had sacks of doubloons packed to the gunwale of his brig. What mattered it if the dearest illusion of a maid walked the plank with two gold pieces bound tight over its eyelids, provided one got a country estate, a town house and perhaps a yacht? Mammon was the only god who was never sleeping or on a journey. The man hovered a bit about the debutante, praising her charms, but he did not want her, that was clear. He nursed a hurt with his hand on his cutlass.

I was glad that the old general was independent and the man Emily Cruger had chosen well enough to do. This brown wolf would be a fearful beast, prowling at one's door.

The luncheon passed after the fashion of its kind. Mrs. Campbell Grant, roped in pearls, thought that, if she had been giving a luncheon early in May, she would have had something hot. An old Russian admiral in citizen's dress feared that the champagne was of a Pacific vintage, and sipped it uneasily until he caught the foreign label on the bottle. He always had trouble in picking up stores in American waters

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he said, no end of trouble. Alas! if he had served his Czar with one-half the zeal that he had served his stomach, his ship would not have been shot into scrap-iron on the coast of Asia!

We depleted the larder to its last pâté, got into our rubbers and proceeded to embark in our covered carriages. We trod upon one another's toes, jammed our elbows into our neighbors, and apologized sweetly for it; but underneath, I fear, we were ravening wolves. The tragedy of a country wedding in a May blizzard, twenty miles from New York!

The women all had been carted away, and I was entering a carriage after the last man when a servant ran out and said the general greatly wished me to remain. Would I return to the house? I was marooned, and no help for it. General Cruger had honored me with a long and kindly friendship, a sort of paternal overcare about the club, attentions to an adopted youngling. He was, doubtless, lonely in his big house with no daughter by the hearth.

The servant took me to a guest chamber where I found a glass of whisky, a hot bath and a dinner-jacket. Meanwhile night descended and I joined the old general below stairs. We dined in rather desolate splendor under the lamps; after that we smoked by a little smoldering twig fire in the library overlooking the river. Then it was that I discovered why he wished me to remain.

"Courtlandt," he began, "you sat opposite a cur-

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ious person to-day at luncheon. What do you think of him?"

"Well," I said, "if one were lacking names, I think he might be safely called a wolf."

He took my answer with a slow nodding of the head; then he walked over to the window and stood looking out at the snow driving up the dim river.

"Emily loves this place," he said; "I am glad I saved it to her; but it was like the story in the Russian fairy-book, I tossed the wolf everything else for it."

Then he came back to the fire and sat down in his leather chair with his feet stretched out to the fender. These were premonitions of a confidence, and I waited, watching the blue rings of my cigar smoke rise to the beamed ceiling. Finally he went on.

"I will keep your name 'wolf,' Courtlandt," he said; "I like it better than the one his father gave him. I am glad Emily is well out of his way, God bless her. I used to shudder when I saw the beast at her heels. It does not matter so much when a man is devoured, he takes that chance in the forest; but the nursery tale of little Red Riding Hood is full of heartaches. I used to see in fancy this wolf in my smoking-jacket by the fire in this chair here. I have barred him out from my little Red Riding Hood; but I await the destiny of the helpless old grandmother."

He reached out his arm, moved some papers on

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the library table, uncovering a legal document in its blue, stiff wrapper.

"I have got to sign this for h' .," he went on, "and then blow on my fingers to warm them I suppose. The place here is decded to Emily, and this property is all I have left."

He took up the paper and handed it over to me. I read it carefully through. It was a first mortgage on certain coal lands and mines of the Pittsburg vein in what is known as the Fairmont region, securing a two-hundred-thousand-dollar issue of bonds. It was made by the Cruger Coal Company to the Exington Trust Company as trustee. A rather bulky document, completed in every detail by a scrivener down to the blank form of acknowledgment.

"You see, Courtlandt," the old gentleman went on by way of explanation, "I am the Cruger Coal Company — president and all, with a few friendly dummies to make the corporation valid. I owe this wolf two hundred thousand dollars. He agrees to take the bond issue for the debt. He might as well take a deed for the property. It is worth perhaps forty thousand dollars more than that; but he will get it in the end for the debt. A deed direct to him would be a little bold just now, a bit like exacting smart money, punitive damages for the loss of Emily."

He leaned over, got a little flaming twig from the fire, and relighted his burned-out cigar with it. Then he went on.

"There is a fragment of unbelievable history

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about that debt, Courtlandt, manufactured with the greatest care by this wolf. Three years ago, when I knew only the exterior of the man, he came to me and said that the Midland and Tidewater Railroad wished to borrow about half a million dollars, and that he was exceedingly anxious to assist it to obtain the money; that the banks in New York were short because of the recent January payment of dividends, but he was advised that the Granite Mountain Insurance Company at Montpelier had a lot of idle money. He was not acquainted with the officers of this company, but some one had told him that I was born in Montpelier and that my cousin, Senator Lapman, was president of the company. Perhaps I would give him a letter of introduction. I gave him a letter, saying that he was known to me and that he was a man of large financial relations, in fact, a rather friendly letter.

“Business in New England is on a rather higher plane than one finds it here. One’s word goes further. When one’s father and grandfather are known, the value of what one says is also known. Well, this wolf took his railroad man up there, presented his letter and got the loan for him, pledging his word for the soundness of the securities and, by strong inference, pledging my word too. The insurance company paid out four hundred thousand dollars, and took the bonds of the railroad for one half-million of dollars.

“Three months later the railroad went into the

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hands of a receiver, was sold, brought merely the value of the receiver's certificates, which the court had issued to cover its operating expenses, and the bonds were, of course, worthless.

"Senator Lapman came to me, and I went at once to the wolf. I told him that the Granite Mountain officials had relied on his word and mine, that he had guaranteed the security in person before the board, and it must now be made good. He replied that I was quite right, he would make it wholly good, but that he would have to borrow the money, as he had not so much to his credit. He asked me to wait while he went across the street to his bank. In a few moments he returned, said the bank would loan him the money on his personal note, but that, to keep within its rules, the note would require two names on it. He could put his office boy on, he said, but if I would indorse it, the transaction would appear rather better.

"I knew that he was perfectly good for that sum, as good as the sub-treasury, and I at once said that I would comply with his request.

"We went together to the bank, an officer made out a note, he signed it and passed it to me. I noticed that it was in the form of a joint note; but I remembered that banks often preferred obligations in that form and I did not hesitate to sign it. Then, at his request, the bank delivered the money to me and I went at once to Montpelier and adjusted the matter with the insurance company. I forgot the

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incident then, but remembered how honorable the wolf was."

The old general's jaw tightened on the bitter word. He broke the cigar in his fingers and threw the pieces into the fire.

"One morning, after Emily's cards were out, I got a letter from the bank, calling my attention to this note and saying it must be paid. I was dumbfounded. I had supposed that the wolf had paid it long before. I went instantly to his office in New York. He met me with a face as cold as a stone, said that he had paid individually the interest on *our* note for several years, that he had used his good offices with the bank to get all the time for *me* that he could, that the bank refused to carry the paper any longer and we must arrange to pay it. In the greatest surprise I recalled the occurrence to his memory in minute detail. He replied composedly that I was quite mistaken, he was no more responsible to the insurance company than I; neither of us had been legally bound, but both had felt morally obliged to make good the loss, and so a joint note had been executed and the money paid to *me*. I surely remembered that.

"I turned around without another word and went to my solicitor. He examined the note at the bank, questioned the cashier, and advised me that the bank would certainly sue on the note and that I should have to pay my half of it. I was horribly disturbed. I did not know where to get two hundred thousand

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dollars. Everything I possessed would hardly bring that sum under the hammer, besides I wanted to give this place to Emily. In this dilemma the bank again notified me that the note would be reduced to judgment if not paid within thirty days, but added that if I would execute a mortgage on my coal property, of which it seems to have had an exact statement, it could place the bonds for my share of the note, and, as the wolf stood ready to pay his share in cash, the matter could be settled. I agreed to this plan because it left me free to convey this place to Emily for her marriage portion. I have since learned that this wolf, Myron Gates, takes these bonds."

The old man paused a moment, removed his eyeglasses and laid them on the table; then he went on, "I have also learned that the whole thing, from its inception, was a plan of Gates to get me into his power. He, in fact, owned the worthless securities which were transferred to the Granite Mountain Insurance Company. He it was who got the four hundred thousand dollars; he it was who directed the bank to make out a joint note while I waited for him in his office; the delivery of the cash to me was a part of the scheme, that the officers of the bank could testify that the loan was for me. He got the two hundred thousand dollars which I must pay back to the bank."

He arose and began to walk up and down the library. "There was a time," he continued, "when one could call out such a creature and make him

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stand up before a pistol for an act like this. The custom had its value, which we forget now. When blood-letting was the penalty, sneaking eads kept their tongues tucked back of their teeth and their fingers out of other men's pockets. The law has disarmed the gentleman, but left the viper his fangs. You are wondering now, Courtlandt, why this man was here at the wedding luncheon; but Emily knows nothing of all this."

He stopped by the table and rang for a servant. "Martin," he said, when the man appeared, "bring a bottle of Long John Scotch and some soda. I want you to try this whisky, Courtlandt; it is made at Fort William, one of the oldest stills in the world."

He went back to his chair with his glass and sat slowly sipping it.

"Now, my dear wedding guest," he said, smiling over the whisky, "I am up to the point where 'the ship went down like lead,' and am come to the explanation of your marooning. I have no source of income now but an inadequate little pension. I cannot live on it anywhere in America without my poverty being patent to Emily and her friends. I must get out of the country. I have thought about some little village in Southern France where one could have, at slight cost, the necessities of life, a servant and sunshine. I remembered that you had been over there for some time with Randolph Mason, and would know about it. Now, to be quite sordid, what would it cost to hide in some forgotten nook of the Medi-

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terranean off the track of tourists? Remember, I am counting pennies — all told not more than two thousand francs a year with five hundred for clothes." Then he added with a deeper smile, "I like to say it that way, it sounds more like a comfortable living."

I had kept my place by the fire without a word while General Cruger was telling his story. He had my sympathy when he began it, now he had also my indignation. In every respect he was a gentleman, who expected to find in other men his own honorable instincts. Such men sweeten the world, and the triumph of evil persons over them is a blow to all, a shoulder set against that power working everywhere for righteousness. I determined to take the matter before Randolph Mason on my own initiative.

"General Cruger," I said, "before we discuss exile, let us see if Myron Gates cannot be got at in some way. The wolf might be forced to disgorge this money; perhaps we could find a way to scorch him somewhere with a firebrand. It seems to me a duty of a rather superior sort to pour a pot of pitch on the head of such a devil's imp."

He shook his head somewhat hopelessly at that. "Do not get a wrong impression of me, Courtlandt," he said, "I should like to pack coals under the beast if I could, I do not fear him. I have no refinements of false conscience against meeting his treachery with steel-traps set in the leaves of his den, but even the discussion of such a thing is idle. I have gone over

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it more than once with the best attorneys in the city, and they saw no hope in a suit. It would be my word against his; but to support his word would be my letter of introduction, the joint note, the evidence of the bank officers that the money was paid to me personally — these things would convince a jury of candlestick-makers and the like. One firm of lawyers on upper Nassau thought I was lying even to them about it."

"But, General," I said, "Randolph Mason is not the usual practitioner of New York. Permit me to talk the matter over with him. Something may come of it."

His manner did not conceal how lacking he thought the result would be, but he was courteously obliged. "Certainly, Courtlandt," he replied, "I shall be greatly in your debt for thinking of the matter, but I fear we shall come back in the end to a counting of centimes, and the problem of a cheap little inn, with a roast fowl now and then and wine of the country."

Then he rang for Martin, gave me a nightcap of Long John Scotch, and sent me off to bed with the mortgage in my pocket. I could not at once go to sleep, for the melted snow trickled on the shingles of the roof, the branches of the trees swept now and then against the cornice and the thought of the old man's exile kept me cruelly unhappy. He was firm-lipped and cheery about it, but I knew there was to him death in it. He could not live with the peasants of Southern France, eat meager dinners, with only

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the blank wall on the other side of him for company, hear no word of his own language day in and day out, sit in the sun and build New York over again in the rising smoke of a black cigar brought down from Marseilles by the postcart. Some morning a pistol would end it; or the Southern fever, pausing for a moment in his village, would lend him a hand into the boat of the last ferryman.

I got somehow to sleep finally, and dreamed a great, thrilling dream in which Randolph Mason drove the wolf howling into the very house where I slept, seized him and, with his long, powerful fingers, choked broad gold-pieces out of his dripping throat, which fell clinking on the hard oak floor.

I had no opportunity to consult with Randolph Mason until the evening of the following day. He was engaged all the morning with the English consul over some government matters, to be discussed only behind closed doors, and, when the consul finally went out, he tramped the length of the house and up and down the stairway, as he always did when the problem before him was unusually difficult, his chin up, his jaws locked like the close-fitting bars of a trap, his eyes wide open, but the eyeballs dull, his body erect, rigid almost, in its gray tweeds, and the long, nervous fingers gripped behind his back. His step was firm, the stride regular, even and mechanical.

I do not know how to give any adequate idea of

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Randolph Mason at such a time, unless I should say that his attitude was that of menace. I do not mean a mere physical threatening. It was rather as though by tremendous effort he drove his intelligence steadily against some well-nigh impassable barrier. At such a time it was impossible to interrupt him. If one spoke to him, he did not reply; if a hand were laid on his arm, he paid no attention to it. When he finally solved the problem, he would call for Pietro. So the patient Italian had learned to adjust his household duties to the uncertain movements of the master — dinner on a tray at any hour, or a bath, or the bedroom darkened for a night's rest beginning with the sun over Trinity's steeple.

I kept sharp watch on his regular, monotonous tramping, because I wished to present to him the matter of the night before as early as it might be. I hoped to go quickly back to General Cruger with some clean-cut, brilliant plan that would turn the pockets of Myron Gates inside out. I had thrown the figure of Randolph Mason a bit large before the incredulous old gentleman. I wished to make my representations splendidly good.

At three o'clock the sound of his regular, even step ceased abruptly in the adjoining room. I got up and looked through the half-open door. He stood in the center of the room with his back toward me for full a minute, then the pressure in his figure vanished, his shoulders dropped, he crossed the room quickly to a bookcase, got down a volume of the

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reports of the King's Bench, marked it with a slip of paper and laid it on the table. Then he sat down in his chair, rang for Pietro and ordered him to bring a little luncheon.

Pietro brought a tray with a chop, a shirred egg and a cup of black coffee. He drank the coffee slowly, resting his elbows on the table in the attitude of one who is very tired. All the muscles in his face were relaxed, even a bit flabby, as though they had been much overstrained. The tremendous nervous energy of the man had withdrawn into its subtlest retreat. He looked about him with the half-interest of one who has been absent.

I went into the room and sitting down in the chair before the table, made my excuses for interrupting his coffee and told General Cruger's story. I had hardly stated the opening points of the matter before I saw how great an error it was to go to him at such a time. He seemed not to follow what I said, his brain was tired, it would not be disturbed, it declined another problem until it had rested. The very sound of my words seemed to annoy him, as the chatter of a child disturbs one who is tired. When I handed him the mortgage, he looked indolently at the first and last pages of it, whipped through the sheets and thrust it over among the papers of his table. Then he arose and called Pietro, directed him to prepare a hot bath at once, and started to walk out of the room. I rose to make a final effort to get his opinion.

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“Mr. Mason,” I said, “this is a great injury to a very helpless man. How is this mortgage to be avoided?”

He answered me with a listless unconcern, still looking after the departing Pietro, “It is not to be avoided,” he said. “Let the man sign it and pay his debt to the bank.”

I caught helplessly at the last straw floating out from my disastrous shipwreck; “What then?” I said.

“What then?” he repeated, with the same indolent indifference. “Why, then, there will be another day to-morrow.”

And he went out of the room and up to his bed-chamber, where the silent Pietro made ready for his eccentric master.

I was crushed under the pressure of this striking failure. I saw instantly that I had not made Randolph Mason understand the injustice of General Cruger's situation. To him, General Cruger stood in the shoes of one who, with his eyes open, had put his name to a note, knowing well what obligation such an act entailed, and who now sought to avoid the consequences. That was all he had caught in my recital. He saw in my hasty story only a penned debtor seeking for a hole in the wall. He was not concerned with such; his talents were not at the service of those who, finding burdens by the way, lifted them to their shoulders and then prayed to be re-

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lieved of them, or of those who, having danced, wished to cheat the fiddler.

I damned myself for a miserable bungler, arose and went out into the city. I could not take up any work just then. My comforting vision of Myron Gates the wolf, flayed, howling in his den, now appeared such stuff as dreams are made of. Not that the problem was beyond solution, there lay the very bitterness of it; I knew that Randolph Mason could adjust it if he wished. His fingers could reach the wolf's throat over his money-hags, if he would but put out his hands. But, like a fool, I had forced an opinion on a case that he had not considered. I had taken his final decree with the evidence unread. I must return to General Cruger with the word. I must help him build his illusion of a rather pleasant exile, with its quaint inn peopled like an opera bouffe, where strange travelers met to pledge flagons, to whisper plots of Don Carlos and the Pretender of Orleans, a life of the footlights.

I had a long talk that night with Pietro. He had a cousin in Poianno, a village about a league from Genoa, where the Mediterranean makes a little sunny pocket. The place, he thought, ran with General Cruger's dream of the Riviera, the bay was paved with topaz, the far-off back of the sea wine-red, as in the days of Homer, the air soft as down,—only the natives were not to be desired. They were picturesque enough for a theatric eye, but they were very dirty, very stout liars, and all sons of the forty

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thieves. His cousin, Guido, was no better than the worst of them, but he kept a very comfortable inn, if the fleas in it were only dead. His wife, Gabriella, had once been in the service of the old Marquis Ferretti at Genoa and knew how to serve a gentleman.

Pietro would write to this cousin and drive a bargain for every detail of General Cruger's needs. It would not do to leave an item out of it. Guido would charge for the sunlight at so much a meter, if he could. Then General Cruger should take this bargain to a notary in Genoa, whom Pietro knew for somewhat honest, who, for a dozen lire, would bind Guido with a contract covering every vagary of the Italian laws of tenantry. Then, if it were not for the fleas, one could live at Polianno, quite as well as the old Marquis Ferretti did at Genoa, for a matter of some fifteen hundred lire paid out in a year. Also, if one cursed like an Englishman, and kicked Guido soundly at least once in every fortnight, he would come to be regarded as a person of importance and have every cap in the place off to him when he took the air. Still, and Pietro wrung his hands over it and wagged his head sadly, an American would be unutterably dreary there. He would rot to death finally, like a bad olive drying slowly in the sun.

There was no comfort to be had from waiting, so I packed up a map, a Baedeker, some current fiction on Italy, and, taking the evil-fated mortgage in my pocket, went to Cliffcourt the next evening. As I walked down from the little station, the sun was lin-

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gering along the paths of the general's garden, trying, like a wilful sweetheart, to make up in delicate little tendernesses for the sorry conduct of that other day. New blossoms were coaxed out, the hedges were on their feet again, the river purred under the stroking of golden fingers. One ought to come in all this sunshine with happy Fortune at his elbow. Perhaps she was on the inside of the house, smiling behind the door. But she was not there, nor any foot-track of her. I almost cried out when I saw General Cruger, his face was so greatly troubled. He looked white and feeble, an old man in two days and nights.

He tried to make a little genial talk at dinner, and get back into his old cheery self. But it was an effort he gave up presently with a rather bitter smile. The dinner ended in silence, with a roast of mutton scarcely cut and wine in the glasses. I had no more heart to eat than this miserable old man. I came with no illusion of hope for him, only directions for the exile, a word about the land he was going into, some poor suggestions for his comfort -- the common amenities of a death-watch.

"Mr. Parks," he said, when we were again in the library, "Victor Hugo once said that bad fortune always grew worse, and pretended it a quotation from the Sybilline books. He believed that Destiny, when it seized a man, always hurried him from one disaster to another until it flung him, finally, into the grave. The first blow was not always the one to

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be wept over. It was the second, the third, that he feared. Well, here is the second."

He took up a letter from the mantel and drew out the sheets as though he would read it to me; then he sat down in his chair still holding the sheets in his fingers.

"I got this letter yesterday from Emily. It was written from the *St. Louis* as she went out to sea, and brought in by the pilot."

He stopped a moment and sat staring into the fire, as if caught by some vagrant memory. Then he read the letter.

It was a happy letter, charmingly put, full of tenderesses for the old father in his lonely house, carrying little directions to him, little messages which he should deliver, little duties he must perform. Martin should drive him to the train-shed when it rained. He must live at his club all he could, and write to her every day, sending the letters to the Hotel Vesuve in Naples for the first week, then to the Dardanelle in Venice, the Continental in Paris and the Victoria in London. She was unutterably happy, as those are who look out at the gray world through the window of another's heart. Then the bit of crushing news, sent as a happy promise. In a month or so they would return to live with him at Cliffcourt. They had thought it all over. He would be too lonely by himself, his little girl would come back with the son she had found for him, the old house should be full of laughter again. How happy they would be ever

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after, as the fairy stories say. The new son's inheritance was in the hands of trustees; he could not get a penny of it until he was twenty-five — that was three years. Three years "to live in daddy's pocket" as she put it. They had enough to make the trip and a little income over — enough for furbelows and a top hat now and then. She must be economical. Then the letter laughed for half a page — the good daddy had observed her try that in other days. It was always tremendously expensive; but he would not care for that, would he? He had always said that the only adequate return which he had ever got for his money was when she spent it on her pretty self. Just wait then, until she kissed him and ruined a Paris frock from hugging him so tightly.

He folded the letter and laid it on the table. Then he spoke with the distinctness of one going firmly to his ruin. Italy was now out of the question; he must remain and get employment somewhere. But, first, this business with the bank must be concluded. He would go up to the city with me in the morning, execute the mortgage and take up the note. He did not ask me about my conference with Randolph Mason, and so I was spared the recital of that failure. When the candles burned down, I slept again in the guest-chamber above the library, but no aid came through the gate of dreams. Hope had abandoned this derelict to the seas.

We went into the wolf's bank at ten o'clock the next morning. General Cruger executed the mort-

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gage, and a notary of the bank filled in the prepared acknowledgment below his signature. The bonds were delivered to the secretary of Myron Gates, the money paid by him to General Cruger, who delivered the cash to the bank and got the note stamped "Paid." Then, when the transaction was concluded, we had luncheon at a club and I returned to lower Broadway after having promised General Cruger to meet him for dinner at the Holland.

When I entered the house, Randolph Mason was coming down the stairway. He inquired what business had taken up the morning, and I told him, as bitterly as I could, the sequel to my other story. General Cruger was now penniless, Myron Gates had boarded his galleon and sailed away with its cargo without a shot at his black flag or the hack of a cutlass on his gunwales. He was over the horizon with his loot, the thing was ended.

"Nothing is ended," said Mason, "until it arrives at its adjustment."

"Then," I said, "this is a case for the Court of Final Equity, if it ever sits."

"It is a case for me," he said.

I looked at him in wonder.

"A case for you?" I echoed. "You said 'Execute the mortgage and let the man pay the bank.'"

"I did," he replied. "You have followed that direction, I believe."

I did not understand.

"We followed the inevitable," I answered him.

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"It was the only thing to do. You recognized that yourself."

"It was the right thing to do," he said; "but not the only thing."

Again I was astonished.

"Why, Mr. Mason," I said, "I asked you 'What then?' and you said there would be another day tomorrow."

"It is here now," he answered. "Each day to its own events. The fool confuses his assistant with a multitude of directions. This is to be done now: You will at once hold a meeting of the Cruger Coal Company under a call signed by all the members of the company, and as provided by law. Prepare the record of the company in proper form, authorize a mortgage on all the property of the company to the London Trust Company of this city as trustee to secure a loan of two hundred and twenty thousand dollars. These mines, I discover, are easily worth that sum, including the earnings for one year. Some foreign clients of the banking house of Hurst & Solmeyer will pay in cash two hundred thousand dollars for these bonds upon the execution of the mortgage. Let General Cruger take that sum and hide it somewhere in Europe under his daughter's apron. Bring me the mortgage when it is ready to be signed."

In the face of all my experience of Randolph Mason, I hazarded an objection.

"But," I said, "the first mortgage is executed.

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Do you mean that this property is worth enough to secure another mortgage?"

"No," he answered, "I have just said that these mines are worth two hundred and twenty thousand dollars."

"Then," I said, "you mean this loss to fall on Hurst & Solmeyer?"

"No," he said, "Hurst & Solmeyer will make twenty thousand dollars."

"Surely," I said, "you do not mean to date this mortgage before the other one, do you? No notary could be got to certify an incorrect date."

He looked at me a moment.

"Parks," he said, "I fear that you are beginning to be a fool." Then he came down the steps and went into his private office.

This light breaking suddenly on a supposedly hopeless darkness, confused me, or else I had not put useless questions to Randolph Mason. I should have known better. Mason's words were never idle, nor were his plans visionary and barren, whether he bid one do a little or a great thing. The story of Naaman and the Prophet was convincing precedent. I did not understand these new instructions and could not point out their intent to General Cruger, but I knew that a pit was being digged for Myron Gates, and that was light enough.

I explained all this frankly to the old man that evening after dinner at the Holland. I urged him with the logic of the Syrian's servants. If Randolph

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Mason had bid us build a great, looming trap for the wolf, we should have done it. How much rather than this easy thing which he suggested! I did not comprehend, any more than he, how it could result as Mason said it would. It would take, in my opinion, words and passes, charmed amulets and the laying on of hands to induce any bankers to advance money on a second mortgage when the property involved was worth scarcely the value of the first. Still, Randolph Mason said the bankers would pay over the money, and he knew. I would pledge my life on that. I was aware, too, that Solmeyer believed in Mason as the Maid of Israel did in Elisha, and that the firm had made a fortune of six figures through that faith. Let us dip ourselves, then, seven times in Jordan, and leave the cure to the Prophet!

I had my way about it in the end. The meeting of the Cruger Coal Company was held, the record correctly made, the bonds authorized, and the mortgage prepared in every detail as the law required it. I took it to Randolph Mason when the scrivener had finished. He examined it carefully, called in a notary, dictated the certificate, had the signatures properly affixed, and sent me with it to the bankers. They took it with the bonds and handed General Cruger a draft on the Rothschilds in Paris for two hundred thousand dollars. I walked up-town with the bewildered old man to his club. He was silent for a block of the way, dazed by this incredible fortune. Finally, he put his hand on my arm.

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"My dear friend," he said, "I seem to be quite awake, and yet this event is after the manner of dreams or the illusion of some Oriental drug."

To reassure himself he stopped on the curb and looked up, like a provincial, at the tall buildings. Then he took his wallet from his pocket and scrutinized the draft, read aloud the signatures on it, and counted the figures slowly, "Two hundred thousand," folded it with a long sigh of satisfaction and returned the wallet to his pocket.

"Yes," he said, "I am quite awake, and I have somehow got two hundred thousand dollars. I do not know how; I have met no fairy godmother; I have seen no genius rising in a wreath of gray smoke, and yet I have two hundred thousand dollars, and I am wide awake on the principal street in New York."

He went on slowly a little farther up Broadway. Then he stopped as though taken with a sudden resolution.

"Mr. Parks," he said, "Randolph Mason directed me to go to Europe and hide this money in my daughter's apron. I will go to-morrow on the *Celtic*. Come down to the ship at eleven and explain this miracle to me. I will run up home now for the luggage."

Then he took a car to his train and I returned to the banking house of Hurst & Solmeyer. I, also, wished an explanation. I walked straight through

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the building to the private office of the elder banker, and sat down before him at his table.

"Solmeyer," I said, "are you sure that the brick which you have just bought is gold?"

The old man smiled and stroked his long, patriarchal beard.

"Yes, Mr. Parks," he said, "this one is gold, Gates got the brass one."

"Impossible," I replied. "Myron Gates got a mortgage prepared by his own scrivener for the full value of this property. His security is prior to yours. How could his brick be brass?"

The old man's black eyes twinkled in their deep sockets.

"Mr. Parks," he said, "you do not know the Prophets. Is it not written, 'Whoso causeth the righteous to go astray in an evil way shall fall himself into his own pit'?"

"The quotation is hopeful," I said, "but into what pit did Myron Gates fall?"

The old banker looked me searchingly in the face.

"Randolph Mason said that we were not to tell this thing to any one,¹ but you are his secretary, and I take it that he has sent you to see if we, ourselves, understand it."

Then he pulled out the drawer of the table and laid before me the mortgage, a copy of the one executed for Myron Gates, a report of the Supreme

¹To avoid a charge of notice under the case cited.

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Court of Appeals of West Virginia, and a copy of the Acts of its Legislature. Each volume was marked with a slip of paper. The banker opened first the volume of Acts.

"You will observe," he said, "that the old form of acknowledgment for corporations was changed by this Act, and a new form given, in which the president of the corporation must certify under oath that he is such officer, and authorized to execute such a paper. Now, the scrivener who drew the Gates mortgage used the old form of acknowledgment as he found it in the form books,² while our mortgage, you will notice, is executed under the new form of acknowledgment.

"Well," I said, "what important effect can that have? The Gates mortgage is in proper form, there is only a mistake in the certificate of acknowledgment. That does not invalidate the mortgage, nor affect the validity of the bonds."

For answer the banker opened the volume of Reports, and passed it across the table to me, his finger marking the page.

It was a decision of the Court of Last Resort in

² It may be suggested that a scrivener would not likely make such an error in the acknowledgment as that made here in the Gates mortgage. The best answer is that such a mistake was made in a mortgage upon coal properties in West Virginia, and can be seen in the office of the clerk of the County Court of Taylor County. This mortgage was prepared by one of the best firms of attorneys in New York, and involved a sum in excess of the sum involved here.

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the state where the mortgaged property was situated, holding that such a mortgage, certified under the old form of acknowledgment, could not be admitted to record so as to create a lien on the property, that such an acknowledgment was void, and that spreading such a mortgage, so acknowledged, on the county records did not make it a recorded lien.

The matter was now clear. The Gates mortgage was not a lien. Gates was only a general creditor. The first and only lien on these coal properties was this last mortgage, which was properly acknowledged, and could be admitted to record. The estate pledged was worth merely the amount of the last mortgage. When it was foreclosed, as it doubtless would be, Hurst & Solmeyer's clients, the innocent foreign holders of the really secured bonds, would be paid in full. Myron Gates would come in after them as a general creditor, but there would be no assets with which to pay his debt. His bonds were, therefore, worthless, his debt worthless. The bank had been paid in cash, the note liquidated; thus the bank was not affected. Hurst & Solmeyer would make twenty thousand dollars. Myron Gates was the only one upon whom the loss would fall. He would be out two hundred thousand dollars.

I understood now why Randolph Mason had merely said, "Let the man execute this mortgage and pay the bank." When he had looked at the legal paper he had instantly seen the old form of acknowledgment and knew that it was void. Myron Gates's

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draftsman had worked his undoing. It was necessary only to get the money from Gates and pay the note at the bank, so that this valid debt would be liquidated with cash and the bank eliminated from the problem, then create a proper lien to a second creditor and leave Gates to whistle for his money. The case was simple, eminently practicable, impossible of failure. Myron Gates had set his own trap, dug his own pit. His trap had crushed him, his pit received him, the score was settled with him to the last cent.

I saw, also, why Randolph Mason wished to keep the explanation confined to the fewest possible persons. He did not wish Gates to discover the defect in his mortgage until he attempted to foreclose it, after the first default in the payment of the interest on his bonds, one year after the execution of the mortgage. It would then be too late for any proceedings in insolvency to affect the second mortgage. So he had left the solution a mystery, even to me, and enjoined Hurst & Solmeyer to secrecy. Myron Gates would rest easy until he began to foreclose, some months, perhaps, after the end of the year. Then he would awake to find his mortgage smoke under him, his bonds rags, his debt vanished.

I closed the book and looked up at the old banker. He sat combing his long white beard with his thin fingers, a cunning, comfortable smile gathering at the corners of his mouth and twinkling softly in his sharp eyes.

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“Mr. Parks,” he chuckled, “I regret that you do not know the Prophets. There is so apt a comment in the Book of Jeremiah.”

I found General Cruger waiting for me on the deck of the *Celtic* when I arrived. Good fortune had restored his middle age, his step was springy, the muscles of his face firm again, the old light rekindled in his eyes. He put his arm around my shoulder, and we walked to the bow of the steamer. The old man was thrilling like a boy over his anticipated plan. He would join Emily in Paris, they would spin through the great wheat fields of France in a motor car, cross the Alps to the Italian lakes and return along the Riviera to Marseilles; but they should live a week, not a day less than a whole week, with Guido at Polianno in the teeth of the fleas, and he would make no bargain with Guido, the Italian should rob him like a brigand of the first order. In three years they would return.

He put his hand gently over my mouth when I started to explain to him the mystery of his resurrected fortune. He had thought it over, he said, and he did not care to know. He preferred to think of the money as a bounty of God, and let the matter rest there. Randolph Mason may have got it out of the gutters of Broadway by an Arabian enchantment, or the bankers brought it from the lost land of Helevah. It did not matter.

I made one of the cheering crowd on the pier as the

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ship went out to sea with the tugs barking at her heels.

Sec. 3 syllabus, *Abney et al v. Ohio Lumber and Mining Company*, 45 W. Va., 446. "A certificate of acknowledgment of a deed conveying real estate by a corporation, which fails to show that the officer or agent executing it was sworn and deposed to the facts contained in the certificate, as required by section 5, chapter 73, Code, is fatally defective, and does not entitle such deed to be recorded."

CHAPTER VII

THE LAST CHECK

I BELIEVE it was a theory of Robert Louis Stevenson that one could have no sense of completer physical comfort in this life than to escape from the "Bastille of Civilization" and dine on tinned bologna and a cake of chocolate under the pines of Gevaudan, "Where God keeps an open house." The average dweller in New York, who could hardly locate Gevaudan with an atlas, will, I think, be found skeptically dissenting. He will cite, rather, the comfortable state of one who takes his steaming dinner at a good hostelry. Let the table be set snugly by a window, let the night be dark and rainy, let one warm and hungry look out at the splashing street, the bedrabbled passers, the huddled cabmen turning their glistening backs to the wind. It is like sitting comfortably in Abraham's bosom with a good view of Dives!

On such a night of April, I had the corner table at a window in the Dresden looking out on the dripping avenue, a good dinner set over a white cloth, a bottle cooling in a tub of ice, a cigar awaiting me on the servant's tray, a hunger like a wood-chopper's

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and a certainty of exemption from the rigor of the elements.

I had arrived happily at my coffee with its thimble of brandy, when a servant came to say that a carriage was waiting for me at the door. I replied that I had ordered no carriage, and began to cut the end of my cigar. The man went away, but almost instantly returned, saying that some one in a carriage wished to see me at once. I went to the door and the porter took me under his umbrella to the carriage. I had no idea who demanded thus peremptorily to see me, and my surprise was not greatly lessened when Randolph Mason's voice spoke to me out of the darkness of the carriage, bidding me accompany him.

I returned to the hotel, got my coat and hat and sat down in the carriage beside him, wondering what could be his mission on this uncomfortable night. It must be an unusual, highly important matter to take him up-town in this chilling rain, for it was rare that Randolph Mason would leave his house to see any man, no matter of what importance. His view of men was that attributed academically to the law — an equality ideally exact: if one's affairs presented a suitable problem, the individual in it was a factor to be estimated and dealt with, but otherwise not to be considered. This voyaging in the night then meant first that the person involved could not go to Mason. It might be some man behind a lock, some innocent person involved in another's wrong-doing who had been suddenly seized and

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must be helped back to his freedom, or else it was a woman.

In the meantime the carriage continued uptown. Randolph Mason was silently smoking a cigar, lying back in his corner of the seat, and I followed his example. It thus happened I took no notice of our route. However, after perhaps an hour, the carriage stopped and I observed that we were under the portecochère of one of the new palaces on Riverside Drive.

The door was thrown open and we stepped down into the presence of a liveried footman, who led us into the house and removed our coats, left us waiting for a moment in a dimly-lighted hall, and then took us up a flight of great stairs. On the first landing we passed two nurses in their white caps and aprons. A moment later we were ushered into a sitting-room off a bedchamber. Beside a table a man sat propped up in an invalid chair. He was a huge bulk of a man, rather over six feet, I should think, with a tremendous, muscular chest, thin gray hair and a heavy, puffy face. Nature had built him for gigantic labors. Energy, strength, decisive action sat in his big muscles; but they were dying now, like the man. A mere loose, devitalized, pudgy hulk remained of what was once a splendid animal. The eye alone seemed living. A brilliant, determined brown eye, burning steady and clear like a ship's light. The last, unfailing servant of an indomitable spirit making ready to abandon its worthless house.

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The man nodded to Randolph Mason. For a moment he regarded me with a curious glance, then he nodded likewise to me. The servant closed the door, leaving the three of us alone, and we sat down opposite the table beside the sick man. With the light of the lamp full in his face, I knew him now, from his lithograph on various bond issues. He was Richard R. Curtis, president of the Life Assurance Company of North America. His ghastly physical condition oppressed me, he was so evidently intended for all the vitalities of life and he was so evidently dying. I looked at Randolph Mason. He sat scrutinizing the invalid's face with the sharp, steady glance of one taking stock of what qualities yet remained vital. The helpless man awoke no sentiment in the bosom of Randolph Mason; he regarded him as an engineer examines his machine, tapping on its wheels; as the elephant of a circus does a bridge, feeling it with his foot. The strength remaining to the sick man was important, not as a measure of life but as a means to the solution of a difficulty.

The invalid put out a trembling hand to a glass of some colored liquid on the table, drank it, and finally addressed Randolph Mason, speaking in a thick, scarcely intelligible voice.

"You see," he said, "how fatally truthful my statement was. I could not come to your office. I shall take but one more journey."

Randolph Mason nodded his head slightly, as though in assent of some trivial statement and in

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invitation to proceed to other matters more important.

The invalid continued:

“Within the last day or two, I have been going carefully over my affairs under a sense of impending death. In one matter I conceived myself to have made a mistake, and I wish to correct it, if possible. You are aware of the recent vicious public assault on the insurance companies, a wave of hostile, rabid, universal sentiment. There seems to be no particular reason for it. The movement is a phenomenon recurring constantly in the history of our civilization. I believe these periodic storms of public opinion to be organic and inevitable. All established institutions, no matter how excellent, are subject to such assaults. I pointed this out ten years ago to the bank officials of New York when a wave of sentiment threatened the established monetary standard.”

He pulled his baggy form together in his chair. As he spoke, his voice became somewhat clearer.

“Now, in all this investigation what wrongs have been exposed? Indeed none, outside of a few companies, except that those in control of these insurance companies had the use of large sums of money and, not being infallible, made sometimes questionable investments; and the further fact that considerable sums were used in politics. Why, gentlemen, everybody knows that the average Assembly of the State is composed largely of men who scheme to extort money from commercial industries by threatening them with destructive legislation. The commerce of

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to-day is no better off than the commerce of the Middle Ages. It must still purchase immunity from the banditti. Sometimes these highwaymen can be fought, but usually most industries have found it less expensive to pay the toll. Consequently, no higher injustice can be imagined than to hold officials of an insurance company responsible for such expenditures. It is like shooting a captain for handing over his ship's money to pirates in order to save his cargo. Why, there is not an insurance company in America that could hold itself together for a year as a money-making concern if it neglected to keep a representative at Albany."

"Sir," said Randolph Mason, "this statement is neither entertaining nor instructive. Please come to the point."

"I beg your pardon," replied the invalid; "I am coming to the point. Five years ago I foresaw the arrival of this outbreak, there were certain signs which I shall not stop here to discuss; and I began to prepare my company for this era of exposure. The result of that labor is to-day evident. My company stands almost alone with a clean bill of health. But the cost to me as an individual would stagger America if it knew. I have done the labor of fifty years in five, and I have expended every dollar that I or my family possessed to accomplish this result.

"You are not to imagine that during this time the political banditti were any the less threatening or avid. I fed them as usual, but, unlike the other

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companies, I paid this tribute with my individual fortune. Now, then, gentlemen, I have come to the matter in hand. One year ago a politician of national reputation determined to force my insurance company to bear the expense of his candidacy for a high office. He controlled certain avenues of legislation, and threatened us with a statute which would have sequestered the assets of our company in a dozen different states, recalled its investments, and left it no way profitably to place its surplus funds. It would have been, in fact, ruin under the guise of law. In plain terms, his price was three hundred thousand dollars. I got him down to two. I had no longer any money of my own, and I would not use that of the company, even to save it from destruction. My wife owned this house, built with money inherited from her father in England—we were both born in Sussex. I executed a mortgage on it directly to this politician for two hundred thousand dollars. I took this chance with my family and myself. I felt sure that this present wave of insane outcry against insurance companies would finally pass, and that when business quiet was again established I could rebuild a fortune.”

The man stopped, his tongue was beginning to get thick. He drank a little more of the colored liquid from the glass.

“I made the same mistake,” he continued, “that the fool did in the parable. This tremendous high-pressure has worn out the machinery. I awoke a month ago to the fact that I was scrap iron. I am

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barely fifty and yet every organ is dying of old age—exhausted. I cannot live a week.”

The invalid must have seen an expression of impatience or protest in Randolph Mason’s face, because he put up his hand and hurried on.

“I have been thinking over these matters, with Death sitting here at my elbow, and I have come to the conclusion that I have done a wrong to those dependent on me. The Christian religion puts the infidel first in the catalogue of the condemned, and yet he that provideth not for his own household is declared worse. Every sentiment of practical humanity stands for the priority of that obligation. I am about to die, and I have in fact not two dollars to click together, except my salary, which will cease at my death. More than that, I have taken my wife’s estate—her very bread and clothing—and used it for the benefit of others. When the breath leaves me, my wife and children go—where? You and I know the sort of aid one’s business associates extend to a dead man’s family. Resolutions of courteous sympathy, suave promises, and finally the closed door.”

“Ah!” cried the man, beating his puffy fist feebly on the table, “if I had another year! Yes, in the name of God, if I had even another thirty days, I could set it right! But I have not three days! Death cannot be postponed. I could not get another day of life, even another hour of it, for the salvation of the world. I must go when the finger touches me, instantly on the tick of the clock. Is

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there any way to correct this injustice? Can anything be done?"

"Nothing could be more simple," replied Randolph Mason. "You are president of this insurance company; are you not?"

"Why, yes, I am still its president," replied Curtis.

"And you doubtless have funds of the company subject to your check," continued Mason.

"I am trustee," answered the invalid, "for the entire surplus fund of the company deposited in the Regent National Bank of America."

"Then," said Mason, "there is the remedy in your very hands."

An expression of despair returned to the man's face, so briefly lighted with hope.

"I have thought carefully of that," he said, "and there is no remedy in that direction. If I gave my wife a check for any portion of this trust fund, she would doubtless be criminally involved after my death for receiving embezzled moneys. If I lifted this mortgage from her property with the money, the directors of the insurance company would, when such facts were discovered after my death, instantly seize the property and sell it to make good the funds so used. Do not misunderstand me. I would no longer hesitate on any moral ground. I believe that my services to the company are worth a living to my family. At any rate, now, in the face of death, I would so use the money and take my chance on the right of it before the Judge over the frontier. I

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would not, to save my own life, take these trust moneys of the company; but to save my family from poverty I would take them if there were any way to do it."

"There is a way to do it," said Randolph Mason. "How much money will it take to satisfy this mortgage?"

The invalid opened a tin dispatch box on the table before him, took out some papers and looked over them a moment.

"Two hundred and four thousand and seventy-five dollars," he replied, "including interest until to-morrow."

"Very well," said Mason, "write out a check to the holder of this mortgage for that sum."

The sick man spread out a check-book before him on the table, carefully and laboriously made out a check and handed it to Randolph Mason, who looked at it sharply for a moment, then laid it down on the other papers.

"That will do," he said. "Take up your note to-morrow with this check, have the mortgage cancelled and released, direct your wife to sell this house instantly for what she can get on the market in cash, take the money so received and go immediately to her relatives in England, and there conceal the money under their names beyond a court's writ."

He paused a moment; then he looked thoughtfully at the invalid.

"A suitable reason for this immediate exodus will

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be the taking of your body for burial among your ancestors in Sussex."

"All shall be done exactly as you direct," replied Curtis, leaning heavily on the arm of his chair. "And, now, if only I could return the money to the insurance company; if only I could even matters with that cold, cruel, cunning political intriguer, I should die happy."

"Then," said Mason, "you will die like the saints. The Assurance Company of North America will not lose a dollar, and matters will be squared once for all with this politician."

The invalid pulled his baggy frame together.

"Human pity," he said, "has always promised the impossible to the dying; but it is no kindness."

"Sir," said Mason, "I promise nothing; I merely point out the inevitable."

"The inevitable," echoed the man. "Why, only the hand of God could perform the thing you speak of."

"Pardon me," said Mason, "your own hand has already done it."

The invalid looked down at his hand, swollen tight in the skin, trembling, purple.

"I am too tired," he said, "to guess what pleantry you mean. I am like Nicodemus, accustomed to look upon things as they occur in nature. I wish to lift a mortgage from this property; in order to do that I pay the holder of the mortgage a certain sum. That sum is taken from the moneys of another.

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How can it be that the mortgage is thus lifted, the holder of it paid, and yet the funds of that other not taken, and the holder of the mortgage not paid? Such things may be possible in a land of fairies, but not here, not in New York. Good cash paid over a bank counter does not turn into chips under the pillow of the wicked, neither does an account in bank renew itself like the widow's eruse. I beg you to tell me what you mean."

"If you will give me a sheet of paper," replied Mason, "I will show you."

The sick man pointed to a writing pad on the table with a pen and ink-stand beside it. Randolph Mason rose, went to the table and wrote rapidly for a moment. Then he laid the written page before Mr. Curtis.

"Copy that," he said, "in your own hand. Seal it and give it to my secretary, Mr. Parks, to lay before your directors when you are dead."

The sick man turned painfully in his chair, put his elbows on the table, propped up his heavy, putty-colored face in his swollen hands and read the paper. Again and again he read it. When he looked up finally his face glowed.

"I see it," he said, as though speaking to himself, "I see it."

Then he sat for a considerable time, holding the paper in his fingers, his mind intent on this new aspect of the case. At length he turned back to the table, laboriously copied the paper, enclosed it in an en-

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velope, addressed it and handed it to me. Then he spoke to Mason.

"I consider this thing," he said, "to be a providence of God."

"On the contrary," replied Mason; "it is a mere principle of law."

Then we went out of the room and down through the silent house to our carriage, waiting in the rain.

I followed the sequence of events with the keenest scrutiny. The newspapers contained no notice of the sale of the house on Riverside Drive by Richard R. Curtis; but I found a deed of sale on record showing a cash consideration of two hundred and twenty thousand dollars. Five days later Mr. Curtis died of Bright's disease. His life and business career were elaborately reviewed in the public prints. I observed the significant item as to his birth in Sussex, and that his body would be taken there for burial. Evidently the directions of Randolph Mason were being followed with scrupulous exactness. All this whetted still keener my curiosity as to the sealed letter in my possession.

Finally, on the first Wednesday of the succeeding month the Board of Directors of the Life Assurance Company of North America met at the company's building on Broadway. I appeared before it and presented the letter. In attendance upon the meeting were some of the great financiers of New York and, among them, the company attorney, Mr. Eustace Ruling,

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whose reputation as a counselor is established beyond any man's comment. The chairman of the board took the letter, ripped off the envelope and read it. Immediately he ordered a clerk to lay before him the last checks of President Curtis. Then laboring under apparent surprise, he addressed the other members.

"Gentlemen," he said, "here is a most astonishing discovery. I find that our late president has used \$204,075 of the company's money with which to pay a private debt of his own. Here is the check and some sort of explanatory note."

Instantly there was a hubbub. In the midst of it Mr. Ruling came forward and took up the letter and the check. He read them carefully, then he laughed.

"Well," he said, "Mr. Curtis seems to have landed on our old friend, the State Boss, with a nice upper cut, from his coffin."

"He seems, on the contrary," replied one of the directors, "to have landed on us. His last official act was to hand over the company's money to this politician."

"Yes," said the lawyer, "but this payment has a quite sufficient string to it. It is explained fully in his letter. Mr. Curtis advises us that, in order to wipe out a personal debt, a debt legally but not morally just, he has given the man a check on the funds of the company. He begs us to observe that this check directs payment to be made by the bank out of the funds of the Life Assurance Company of North

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America, and that it is signed by him as the trustee of such funds. He begs us further to observe that this payment is, consequently, plainly on the face of this check a payment with trust funds. Therefore, this politician takes no title to the money which he will receive by it, and must pay it back to the company."

"I do not quite understand," said one of the directors.

"It is all entirely clear," replied the lawyer. "This check is made payable on a trust fund. It shows on its face that it is drawn on moneys belonging to the Assurance Company and not individually to Richard R. Curtis. This notice is set out fully in the body of the check. The signature with the word, trustee, attached, confirms the trust nature of the fund upon which it is drawn. Now, these political leeches have grown so accustomed to being fed on insurance money that they have come wholly to overlook the law. No doctrine of the law is better settled than that a trustee has no power to pay out trust funds in settlement of his private debts, and one who takes trust funds, with notice of that fact, acquires no title to them and can be made to restore them. The peculiar wording of this check gave full notice that it was drawn on trust funds. The person who cashed it was thereby fully aware of that fact and, consequently, he must restore this money."

"But," said the chairman, "is this politician good for that amount?"

"What!" replied the lawyer, "our friend, the

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State Boss, good for it? Why, the thief has a million dollars in one building on Twenty-third Street!"

In their consuming interest in the matter my presence was apparently overlooked, and I stepped softly through the door. These men did not realize its full significance; to them it was merely vengeance visited by a dead man on his enemy, a payment to a rogue in his own pocket-pieces; but to one who knew all the facts, Randolph Mason's plan had worked a larger justice. Mason had seen instantly that, if this mortgage could be lifted, Mrs. Curtis could sell the house, the purchaser's title would be clear, and she could take the money out of the country and conceal it. The only problem was to get the cancellation of the mortgage on the records. This check on the trust funds did that and yet left the taker of it liable to the assurance company, which owned the funds. Suppose it were technically a crime in Richard R. Curtis thus temporarily to appropriate the moneys held in trust. He was dead and no injury would come to any one innocent of wrong. A dependent woman had her property returned to her; a skulking rogue had his own knife in his ribs, and the Assurance Company of North America would receive its money with usury. I saw now why the dying man looked upon Randolph Mason as a providence of God.

For the legal principle involved in this story see *Brown v. Ford*, L. R. A. New Series 97. In New York see *Cohnfeld v. Tannenbaum*, 176 N. Y., 126, 98 Am. St. Rep. 653, 68 N. E. 141.

CHAPTER VIII

THE LIFE TENANT

I HAD remained the night at Randolph Mason's house. It was very warm, and at daybreak Pietro opened all the doors and windows to invite in what little breeze there was. I was disturbed by this, and presently arose and took a cold shower bath, after which Pietro brought me a Continental breakfast served on a tray.

It was early, then, doubtless not later than six o'clock, when I left my bedchamber. As I turned the landing of the stair, I noticed a man standing in the street door. He was a tall, slender young man, rather well-dressed; the lower part of his face was hidden by a handkerchief, which he held pressed against his mouth; there were blood spots, widening on the handkerchief, and an unmistakable expression of fear was in the eyes. It was evident that he had met with some injury.

I led him at once into the office and rang for Pietro. In a moment the latter was at the door, and I directed him to bring a bowl of water as quickly as possible. So far, the injured man had not spoken. I doubted if he could speak, the wound being evidently in the mouth or throat. The moment he got into the room

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he lay down at full length on the floor, perfectly motionless, his head back, his eyes closed, still pressing the bloody handkerchief to his lips. When Pietro set the bowl of water on the floor beside him, he dipped the handkerchief into it, squeezed out the blood and returned the damp cloth to his mouth. I saw the blood coming slowly from between his lips; it was very bright—arterial blood, a little frothy.

I turned to Pietro and directed him to call a surgeon. At the word the bleeding man shook his head and opened his eyes with an expression of protest. This refusal of medical attendance in one so desperately hurt was to me highly significant; it subjected him instantly to suspicion. I determined to see if he could speak.

“Do you want a physician?” I asked.

He shook his head.

“Are you badly hurt?”

Again he replied with the same negative sign.

“What is the matter with you then?” I purposely phrased the question so that a nodding would not answer it.

“A ruby,” he said thickly behind the handkerchief. The reply was unintelligible to me. It was doubtless some term current among criminals. I was now convinced that the man belonged to the criminal classes. He was certainly injured and he refused a surgeon—yet I could not leave him to die on the floor. In this quandary, I turned to find Randolph Mason standing behind me.

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"Pietro," he said, "this man is having a hemorrhage. Leave him alone."

Then he went back into the next room.

Instantly the mystery cleared. The poor fellow was merely a consumptive, doing the only thing possible for a slight bleeding—to lie stretched out motionless. The hemorrhage had doubtless come on him in the street, and he had noticed our open door and come in. The flow of blood had now about ceased, and I went to my table to examine the morning's mail.

Presently the man got up and sat down in a chair by my table.

"Was that Randolph Mason?" he said.

"Yes," I replied.

"I thought so," said the man. "I came to New York to see two great specialists, Dr. Ashby Clark and Randolph Mason."

He tapped his breast with his finger.

"Clark says no good. I wonder what Mason will say."

"You were looking for this house, then?"

"Yes; I was coming up the steps to it when I got the 'ruby.'" Then he explained: "That's what we call the hemorrhage, the blood is so bright, you know—a technical term of the 'lunger'."

"I thought you were a wounded burglar," I said.

"If you wish to talk with Mr. Mason, you would better go in now while there is an opportunity."

The man arose and went into the private office.

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I heard Mason direct him to be seated and order Pietro to give him a glass of whisky.

"I came over to see you and Dr. Clark," began the visitor; "Clark, because I have consumption; you, because no man ever has simple consumption. He always has another trouble with it—a bad heart that won't stand high altitudes, a wife who won't leave the home folks, or no funds. My fix is the latter. Clark says I will last six months in an American climate; but if I will go at once to the Marquesas Islands, my lung will probably heal and I will hang on until some native pinks me with a fish spear.

"I guess the place isn't so bad; it's under the French and quite a garden of Eden, Clark says. But it is away off in the South Seas. It would take a thousand dollars to get there and a check arriving regularly every pay day to keep me going. I have read about the beach-combers on these Pacific Islands—there's no hobo worse off. And no way to make a cent there. Copra is the only trade stuff, and the natives have that. Everything fit for a white man to eat is tinned. You've got to buy it when the ship lands. You've got to be a government Johnny, a missionary or a native, otherwise you live on money from home or the French deport you for a convict. That's Clark's garden of Eden. I got the facts at a tourist's joint uptown. So, there I am! I can't live if I don't go; I can't go; I can't live if I could go! Nice, comfortable bunch of alternatives that! I had a little money, but a court down in West Vir-

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ginia skinned me out of it. Now I haven't enough to pay a doctor. That's why I shook my head on the floor awhile ago."

"You mean," said Randolph Mason, "a legal decision rendered against you in a suit at law?"

"Not a bit of it," replied the man; "I mean what I say—skinned out of it. I had no law-suit. I was standing in a crowd of rubes before a court house when the blindfold lady stepped out with a little shell game and lifted my wad."

"This," said Mason, "is the jargon of a cab driver. What do you mean?"

"I'll cut it out," replied the man, "I will begin over. When my father died he left me ten thousand dollars in bank stocks. It paid a dividend of about four per cent., and no taxes. Being naturally smarter than my father, I at once determined to take that money and get rich. I sold the stock, pocketed a check-book and got busy. One bright morning, in a little town on the Monongahela River, a commissioner was selling a tract of land before the court house. In my hunt for good things I happened by accident to know about that land. It is a rough mountain tract, not worth ten dollars an acre; but it is underlaid with the Pittsburg vein of coal, standing up eight feet thick, clean and solid like a ledge of sandstone. A corner of the land comes down to the railroad and there is a little mine, opened and operated by the old farmer who lived on the place. He had a pole-tipple, wheeled the coal out by hand, and

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got off about a car a day. The tract contains some two hundred acres.

“I stepped up to the commissioner and inquired about the sale. He told me that the owner was broke and the court was selling the land. I inquired if the coal was included and he said, ‘Yes; from the sky to the center of the earth.’ Then I asked the bid. When he answered fifteen dollars, I nearly threw a fit! Fifteen dollars! The coal was worth two hundred an acre. Now, I had been knocking about the coal country for a good bit and I was no greenhorn. I knew that this was the Pittsburg vein and I knew what it was worth. The court was selling the land, so there could be no doubt about the title. I would not have trusted any dealer about a land title if it had been a private sale; but here was the court—the old blind lady herself—selling the land, so the game was bound to be straight. I bid twenty. The commissioner called it a moment, and a big man, out a little way in the crowd, with a nose like your elbow, bid twenty-five. I let the thing hang to see if there was another bidder; then, just before the ‘going,’ I bid thirty. Nosy looked me over, snorted and finally bid thirty-five, and ‘five more,’ I said. He stamped around awhile and finally lifted it to forty-five.

“‘All right, Nosy,’ I said to myself, ‘I’ll just throw a good, stiff bluff into you and end it.’ ‘An’ five’, I said, ‘an’ five more every time you raise it.’ He looked at me for a good minute.

“‘You’re a damned fool!’ he said, and then he

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walked out of the crowd. Nosy was right about that; but I didn't know it just then. The land was knocked down to me at fifty dollars an acre. I paid cash and got my deed, all signed, sealed and delivered.

"When I got home and opened my package, I had as nice a box of sawdust as you ever saw. The old girl in the blinkers had double-crossed me like an expert. No street fakir could have cleaned a smoother job. My title to this land proved to be only a life estate. I hunted up a lawyer. He said that a court did not guarantee a title when it sold land. I remember his language—it cost me money and I shall always remember it. He said 'The doctrine of *caveat emptor* obtained at judicial sales; the purchaser bought at his peril.' That is, 'Your eyes are your market.' The court sells land through its officer to the public, sells the title for a good one, takes your money; and, if the title is defective, you are stuck, you can't get your money back. The old lady comes out to her door and sells you a pig in a poke. If there's no pig in it, the joke's on you. If it's somebody else's pig, the joke's still on you. I've been up against the shell and the little pea, the five-dollar bill and the soap box, the glad gent who knew my Uncle Ephraim in Potunk, and all kinds of crooked faro, but for the real thing, give me the old blind girl in the court house."

I leaned my elbow on the table and looked through the open door at the narrator of this tale, indiffer-

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ently sipping his glass of whisky and flippantly spinning out his story like a tipsy sailor. This sanguine temperament goes surcly with this discase; no other dying men whistle thus cheerily in the face of death.

“So there I was,” the man continued, “no money, no land. I had bought only the right to use this ground as long as the old farmer lived. A goat with creepers on his feet would have starved on the top of it. I tried to sell out to Nosy. I discovered then that he was a capper for the Union Fuel Company, a little branch of one of the two soft coal trusts of America.

“‘Nothin’ doing’, he said. ‘Our company put up that little job to catch just such suckers as you are. We bought the fee simple title to that land; then we picked up the debts of the old farmer, who was supposed to own it but had only a life estate, as we knew. We got the debts for ten cents on the dollar, when we showed the creditors that the rube had no title. Then we brought a creditor’s suit to sell the land. I expected to buy it in for the face amount of our debts, but when you butted in and bid it over our debts, I side-stepped. We made about nine thousand dollars on your cut-in. No, we will not pay out any good money for your little old life estate. Not us; our heading won’t get up to this land for the next ten years. I guess we’ll just set back on our hunkers and wait till the old man dies. So long! I may not see you again. You’re a lunger; ain’t you?’

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"That was two years ago. The bugs haven't knocked off any time, Clark says, and, unless I can get to the South Seas, I'm all in."

Randolph Mason leaned over and made a little calculation with his pencil on the corner of the writing-pad.

"In your condition of health," he said, "ten thousand dollars should easily buy a six per cent. annuity. Could you live in the Marquesas on six hundred a year?"

The consumptive's eyes snapped.

"With all the comforts of home, and money to invest in the funds, as the French say. Outside the grub, you only need a sleeping mat and a pair of pajamas. Fifty plunks a month? I should say yes."

"Very well," said Mason; "you shall have twelve hundred dollars down for expenses, and six hundred payable semi-annually as long as you live."

The facetious youth made a wide, ludicrous gesture with both arms as though gathering up a great heap of bundles.

"An' a motor, an' a private car, an' an insurance directorship, an' the young princess, my daughter, for a wife, an' twelve she asses laden with gold—where from?"

Randolph Mason looked down at him as one does at a pert, gibing bootblack.

"From the Union Fuel Company," he answered.

The cheerful consumptive snapped his fingers.

"Stuff's off," he said. "You might get it from

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the Fresh Air Fund or Uncle Abdul of Turkey, but not the coal trust."

"We shall get it from the Union Fuel Company," said Mason. "Mr. Parks, have Pietro call a carriage, and come with us."

The young man arose, waved his right arm in a great gesture of assent.

"All right, Governor," he said; "have it your own way; but when you wake up, don't take it out on me."

Then he cocked his hat on one side of his head and followed out to the carriage behind Randolph Mason.

The offices of the Union Fuel Company are at the foot of Broadway, an entire floor, reached by a great semicircle of elevators, banging, rattling, clicking, in their amphitheater of cages. The business carried on here is of necessity stupendous. It has to do with modifying the temperature of the whole country. The forces, too, that labor everywhere under a man's fingers, are sold here, stored in a block of carbon. The companies housed under this roof, and the rival ones occupying as great a building across Broadway, practically own the available coal beds of America, the virgin sources of all the energy used commonly by man, from the fire cooking his egg to the fire driving his steamship. That there should be two well-defined groups of such companies thus in rivalry, standing like duelists with the street between them, arises from the fact that there are two great railroad

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systems, as yet uncombined, leading into the storehouses of America's coal, each railroad greater in its authority than an empire, having its retinue of operating companies attached like feudal dependencies, bound to the overlord under penalty of ruin, and coming and going at its beck like the servants of the centurion. The two buildings are thus packed with the chief offices of coal companies having mines on the thoroughfare of these roads. Anyone of these companies would find an alert rival across the street.

It was quite an hour before we got into the office of Andrew Flint, the president of the Union Fuel Company, although it was one of the smallest companies in the trust. He was a man magnetized by the rubbing of gold coins; he seemed to point constantly to the financial North; no matter how the needle were flung, it swung finally back there. The very physical type of the man was metallic. He was thin and sharp, with iron hair, eyes blue like the points of a drill, and a manner as of a constant clicking. He had abridged the courtesies of life to a formula of brief conventions; but in the discussion of dollars he was almost voluble, his voice raced. He waited, seemingly hung on a string like a suspended pendulum, while Randolph Mason in a dozen sentences stated the gist of the consumptive's story.

Mr. Flint spoke a monosyllable to a clerk, who brought a case of papers and laid it open on a table

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before him. For a moment he ran his eyes through the file.

"Correct," he said; "your Mr. Hopkins owns a life estate in these lands. We own the remainder. What do you want?"

"I want you to buy the life estate."

Mr. Flint looked again at his papers.

"The advice here is against it," he answered. "This tract is a patch attaching to the eastern corner of our field. Our main openings are four miles west; the coal won't be available to us for ten years. This life estate may be terminated then. Why should we buy it now?"

"For the very reason that it may be terminated then," answered Randolph Mason.

A smile flitted across the face of Mr. Andrew Flint like the sun over gun metal.

"You have come to the wrong place," he said. "This is not a charity bureau."

"Pardon me, sir," replied Randolph Mason; "we have come to the right place. By the use of the machinery of the law, you have taken this man's money. You must now purchase his title to the land, pay him in cash the two years' interest already due on his purchase money, that is, twelve hundred dollars, and the interest semi-annually hereafter, that is, six hundred dollars per year until his death. This is not an unreasonable proposition, because, in the present condition of Mr. Hopkins's health, it is not likely that he will live for a longer pe-

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riod than the farmer at whose death the estate terminates."

The president of the Union Fuel Company laughed, his voice cackling like a spinning cog-wheel.

"Really," he said, "you amuse me."

An ugly sneer gathered in the corners of Mason's mouth.

"You do not amuse me," he said; "you annoy me."

Mr. Andrew Flint flushed and turned sharply in his chair.

"I believe this conference is ended," he said.

"Not quite ended," replied Randolph Mason.

"Listen a moment, if you please. It is the law of the State of West Virginia that a life tenant—that is, one owning a life estate in lands—cannot open mines and remove coal or minerals from such lands during his life, but must get his living from the surface and pass over all the wealth beneath his feet to his successor. He may be sick, weighted with debt, starving, the wealth of the Indies may lie beneath the sod of his lands like a buried treasure, yet it is held in certain decisions that he cannot touch it. Does such a rule of law seem to you to be justice?"

It was now Andrew Flint's turn to sneer.

"I am not interested," he replied, "in the justice of it."

"Perhaps," continued Mason, "you may be interested in a further provision of that doctrine, quite as curious. It is also the law of the State of West

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Virginia that, if at the time the life tenant comes into his estate there is a mine opened on the land and in operation, then this person with the life estate can not only continue the operation of the mine, but he can also work it to exhaustion. He can gut the land of every ounce of value. If a way be but cut to the door of the storhouse, he can rifle it to the last penny. He can disembowel the land and leave his successor only a worthless shell. Does this seem to you to be any sounder justice?"

The president of the Union Fuel Company fell back into his attitude of business interest, as by the snapping of a lever.

"What! what!" he said. "Let me understand you?"

"You shall understand me exactly," replied Mason. "There is a little mine in operation on this land. If you do not choose to make this contract with Mr. Hopkins, I shall take him to the coal company across the street, which also operates in this region. I shall lease the land to it for any royalty it suggests, even a cent a ton. This Pittsburg vein is eight feet thick. It will yield ten thousand tons to the acre. At one cent a ton that would net Mr. Hopkins a royalty of one hundred dollars per acre. Ordinarily any company would take out ten acres every year. Under the existing conditions, this company will take out twenty. This will yield Mr. Hopkins some twenty thousand dollars in the end, and the company a profit of a hundred thousand; and you at the farmer's death

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will have a shell of broken rocks to inherit as your estate. Does my proposition seem now a matter of so much amusement?"

Mr. Flint saw that the matter had reached that practical status which he called business, and, after his custom, he prepared instantly to meet it.

"Just a moment, please," he said.

He turned to his telephone on the table and called up one of the great law firms of the city. He stated in a few rapid words the legal question involved. We could not, of course, hear the answer, but the jerky expletives of Mr. Flint were eloquent.

Presently he placed the receiver on its horn.

"We will take Mr. Hopkins's title at your figure," he said.

But just then the consumptive emphatically thrust into the conference.

"No, you don't!" he cried, bouncing out of his chair. "I've got the harpoon in you, an' I'm goin' to jump on it. You pay me a thousand dollars a year, and every minute I raise it five hundred!"

Randolph Mason reached over his hand, caught the excited Mr. Hopkins by the arm, and replaced him in his chair.

"Your silence," he said, "will oblige me. You shall receive exactly the sum I have named, neither a dollar more nor less. I do not intend that either you or this company shall take an advantage."

I do not know which regarded Mason with a greater wonder, the humbled consumptive or Mr. Andrew

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Flint. The one, no less than the other, expected an advantage to be pressed home; it was the first law of commerce, as they knew it; all else was a theory of churches.

I think the sick man would have broken into protest, but the manner of Randolph Mason was not to be misread, and, too, in the consumptive's eye he was something of the magician in the fairy book, and not to be set in anger lest the gold in sight vanish.

A deed was swiftly written, executed, and a check for twelve hundred dollars passed over to Mr. Hopkins.

I shall always remember the comment of that erratic but cheerful person as we left the building. He walked along through the corridor beside me, his eye traveling in sort of childish wonder over Randolph Mason, who strode before him, doubtless like a Providence. Finally, as we were coming to the door, he plucked my sleeve and spoke his comment, which, phrased differently, was, indeed, the comment of us all.

“The old boy's hell! ain't he?”

For the legal principle involved in this story see *The Law of Mines and Mining in the United States* (Barringer & Adams, page 15), also the following cases: *Koen v. Bartlett*, 41 W. Va., 559; especially 567; *Williamson v. Jones*, 39 W. Va., 231; *Wilson v. Yost*, 43 W. Va., 834.

“The rule is well settled that a tenant for life, when not precluded by restraining words, may not only work open mines, but may work them to exhaustion,” p. 567, *Koen v. Bartlett*, *supra*. Opinion.

CHAPTER IX

THE PENNSYLVANIA PIRATE

REFORMS, it would seem, only cause the devil to change his clothes. The advance of civilization is a progress in disguises; the agents by which the Emperor of the Hoof carries on his gentle arts are always costumed appropriately to the times, but the agents themselves remain the same. For example, would you find again the free-booters, hanged so long ago at the yard-arm, you have but to look closely at the financial advertising in certain great dailies of New York.

Kidd, Morgan, and Stede Bonnet of the Barbadoes are not dead. In any city of America, they are living—although the scenery about them has been reset. The sloop of eight guns has been traded for a north office in a Trust building, and the cutlass has gone in pledge to the printer. It is a trick of costuming, but the business of the play is quite the same; the doubloons, the picces of eight are still to be had from the hold of the merchantman.

The wonder of these financial ventures, so glaringly advertised, is that the public is deceived by them. The impossible profits offered ought to be a sufficient warning, but it is not. It is, in fact, the brightest

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spot of the lure. If one cannot go himself on the quest of an eldorado, he will send his dollar. It is the old spirit of adventure at work again for these gentlemen of the seas.

Usually, the man of average sense can instantly put his finger on the fraud hidden under the glittering promise; but now and then one comes across a so-called financial proposition so fair, so set about with unquestionable safeguards, that the keenest scrutiny cannot discover in it a possibility of loss. These are the schemes of the great masters—disguised sloops of Kidd, Morgan and Bonnet.

I found such a scheme occupying a quarter-sheet of an evening paper, cut it out and laid it on my table under the ink-pot. It ran in this fashion:

The Bank holds the money. The safest proposition ever offered to investors. We are placing on the market blocks of stock of the Union Consolidated Oil Company under these unparalleled conditions: You deposit the amount of your subscription to your own credit in the Driller's Bank of Pittsburg, a certificate of deposit is issued to you in your name and held by you. You also get the stock certificate. You keep both exclusively in your own possession. We ask only that you turn over to this Company the certificate of deposit issued you by the Bank when the Oil Company has paid to you, in dividends on your stock, a sum equal to the amount of your investment. This is the only stock ever offered in any market which is not subject to loss. You keep your money safely on deposit with one of the greatest banks in America and, at the same time, make the sort of investment out of which John D. Rockefeller became the richest man in the world. Write to-day for our detailed plan.

THE UNION CONSOLIDATED OIL COMPANY,
75-81-103 Iron Bldg., Pittsburg, Pa.

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I was held and puzzled by this striking proposition. It seemed to be drafted with an eye only to the protection of the investor. If it had failed to name the bank in which the funds were to be deposited, or had named one of a lower standard, I should instantly have doubted its good faith; but the Driller's Bank of Pittsburg was well rated; it had a capital of five millions; its stockholders were, for the most part, men who had made fortunes in the oil fields of western Pennsylvania. It was naturally the bank which such a company would select. Where then was the flaw? What advantage did such a plan offer to this company? The money was not paid to it, but to a responsible bank on deposit to the investor's credit; the company could not get it. The money would be returned by the bank, unless an equal sum were paid by the company to the stockholders. It would, indeed, be difficult to devise a safer scheme. Almost any one would speculate under such conditions; it was removing the element of chance from the game, and yet here evidently were large sums expended in advertising. Surely a deception was hidden somewhere there, so the advertisement fascinated me like a page of puzzles. It lay under my eye for a week; then I dropped it into a pigeonhole of the desk.

Two years later Captain Roger Shelton called to see Randolph Mason. I have rarely met a man so aptly cast for his part as this Captain Shelton. He was tall, somewhat unevenly fattened, clothed in light

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worsted, with a style of coat provincially called "cutaway," always kept buttoned, a top hat and very shiny patent leathers. His eyes were alert and his speech rapid and persuasive. His mouth, however, was loose in the under lip—the real Captain Shelton flying there his signal. His manner tended quickly to establish relations of amiable fellowship; he strove for that with a certain breezy frankness.

Some one on lower Broadway had sent him to Randolph Mason. He required a little assistance, he explained, of a business rather than of a legal nature. He had struck a hard place in a trade. If he could get over it, his fortune was established.

The captain seemed an ideal promoter. He strove, with no slight cunning, to inform himself through me about Randolph Mason. He led to his queries always by two roads, like a commander of infantry; when one was found guarded, he crossed quickly to the other. I think, too, that his knowledge of men was fairly accurate, for, when he came, presently, before Randolph Mason himself, his manner perceptibly changed, the "hail fellow" vanished, he stated his business with a certain approach to dignity, and it was only when the "murder," so to speak, was out, that the real man came visibly to the surface.

Randolph Mason gave the Pennsylvanian close attention. He led him almost persuasively into detail. He unearthed here and there a covered portion of his story until the nature of the affair came wholly into daylight. The art of subtle inquiry, in the use of

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which Shelton had a certain skill, was turned masterfully against him, and so unobtrusively that each elicited feature seemed to follow some voluntary statement like an inevitable sequel.

Captain Shelton had intended to give such elements of his story as he deemed necessary to his end; but under his handling by Randolph Mason he was unable to stop at his own marked points. When he laid his hands on a protruding limb of his story he somehow astonishingly drew up with it the whole hidden body. The point upon which he wished aid, baldly put (as he had intended), was commonplace enough. He held ten thousand acres of land under oil leases, lying solidly in a parallelogram with the exception of two tracts of nine hundred and twelve hundred acres respectively. These two tracts were owned by two directors of a certain savings bank in New England. The larger tract he did not want, but the nine-hundred-acre tract he greatly wished; it was the only territory of the whole block lying, in his opinion, above oil-bearing strata. He exhibited a map showing in red this strip of land running across the parallelogram, and explained that the oil-bearing rocks in this region sloped on either side, forming a synclinal, and that this synclinal lay almost wholly within the tract colored red on the map. It was, therefore, the storehouse of the whole region. Now the difficulty was that these two men had an agreement that one would not sell without the other. Each demanded the same price for his property, one hun-

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dred thousand dollars in cash. The tract lying over the synclinal was worth half a million dollars, the other was worthless. Captain Shelton could, of course, purchase both, but he did not have the amount. He had in available cash on deposit about eighty thousand dollars. He could not get another dollar. He had labored for years, he said, to locate this eldorado. He had found it at last, like a pot of gold at the end of the rainbow. By right of discovery it belonged to him; he had earned it with his wits; he wished now to possess it.

Such were the well-pruned facts that Captain Shelton had selected for presentation to Randolph Mason; but the narrative, under Mason's touches, would not stop with two directors of a conservative savings bank in New England holding tracts of oil land in a distant state remaining unexplained; it would not stop with a mysterious pact binding them to a common sale at a common price; it would not stop at eighty thousand dollars clean cash in Shelton's hand unaccompanied by any avenues of credit. The parts of the story could not be separated without disclosing glaring discrepancies. Wherever the narrative was cut, it bled. In his effort to avoid this obvious result, the man said more than he intended and in the end told everything that he had meant to conceal. If the naked facts first given by Captain Shelton were commonplace, this pirate's log from which they were taken was not. Cast into proper sequence this was the whole story.

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Captain Shelton was a financial buccaneer. Some two years earlier, in a gust of fortune, his brig had sunk and he had come, with five hundred dollars, perilously ashore. Faced with a desperate need for a new sloop, he hit finally upon this delectable plan. The country at large was in a hysteria of industrial consolidation, the markets gorged with securities, and the banks necessarily short of ready money. He went to the president of the Driller's Bank of Pittsburgh and offered to secure for it a million of dollars in non-interest-bearing deposits, guaranteed to remain undisturbed in the possession of the bank for at least one year, provided the bank would pay him three per cent. per annum for the deposit. This was one per cent. less than banks generally were paying for time deposits running no longer than four or six months.

The president at once agreed, and, presuming that it was Shelton's intention to canvass for deposits, loaded him with literature of the bank. The excellent captain dropped these pamphlets into the waste basket and walked over to a cheap lodging on Fourth Avenue. There, from a drunken roustabout, for a hundred dollars, he bought a bagful of oil leases on worthless territory lying along the east side of the Ohio River above St. Mary's. Then he got a charter from the secretary of state of West Virginia, and organized the Union Consolidated Oil Company with a capital of five millions. For two dollars and fifty cents he bought a seal, and for five more a book of

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stock certificates excellently printed on bank-note paper.

Then the captain sat down at a hotel desk in the city of Pittsburg and wrote the advertisement which I had cut out of the New York evening paper. This he put in the hands of an advertising agency of New England with a deposit on account of two hundred dollars. With the remaining money he rented three furnished rooms on the nineteenth floor of the Iron Building, and sat down to await the arrival of his fortune.

The president of the Driller's Bank sent for Captain Shelton and demanded an explanation of his remarkable plan. The captain instantly invited an inspection of the company. He exhibited recorded leases, legally valid, covering some ten thousand acres of land, and a corporation properly organized, the leaseholds transferred in payment of the stock—every detail entirely within the law. He pointed out that under his plan no man could lose a dollar of his money. It would remain on deposit with the bank to the depositor's credit while he, Shelton, tested the territory. If these lands proved oil-producing, as he thought they would, then his stockholders would make enormous profits. If they proved worthless, no man would lose a cent, the company would be dissolved, the certificates cancelled and every stockholder permitted to withdraw his deposit. Then he spoke thus pointedly:

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"Your bank's good, isn't it? You will pay the people's money back to them, won't you? I can't rob them, and I suppose you won't."

The president of the Driller's Bank determined to lay the matter before his directors. In the meantime, a tide of small deposits began to arrive. When the directors met on the second Tuesday of the month, there were a hundred thousand dollars in these deposits, increasing with every mail. The bank needed the money, it was loaded with industrial securities. The directors hesitated, and finally continued the matter until the next meeting. The tide swelled into a flood, the matter never came up again before the board, and Captain Shelton secured not one million, as he had promised, but in all nearly two million dollars in deposits.

The entrance of the two bank directors from Massachusetts followed a little later on. Shelton had sent his advertisement broadly scattered into New England, reaching for persons there with small annuities and little savings in banks. His plan touched the very king-bolt in the nature of these people, a possibility of wealth without risk. The income from their deposits in savings banks was slight. This speculation involved only the transfer of deposits to a different bank with a try at an eldorado for a rider. Having determined that the Driller's Bank of Pittsburg was solvent, deposits went flooding westward. So great were the withdrawals that two

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directors of one of these banks in Massachusetts, at the suggestion of the depositors, went to Pittsburg to look into the matter.

Captain Shelton was advised. He met these gentlemen at the Pennsylvania station, entertained them at the best hotel, directed their attention to the stability of the Driller's Bank, and then carried them down into the oil field. There they found blind-folded Fortune scattering her favors like a tipsy Vestal. That man who whisked by the train window in a motor from French chops had been, yesterday, a barber. That man whose carriage waited at the depot, with a driver in livery and a pair of cobs harnessed with silver buckles, two years before had waded the river from Ohio wet to his middle. That man whose stone house clung to a bluff above the car track, apeing the architecture of the Rhine, had found, not the lamp of Aladdin but that which illuminated all lamps. The Prince of Monaco never dreamed of such an orgy of chance.

Captain Shelton counted well upon his heady air. He brought forth his maps, but he spoke little and sanely. The topsy-turvy condition spoke for him. He posed as one sober, careful, far-sighted, in a community of drunkards. Here were opportunities to be seized, wisely held in hand and made to produce, not a casual pot of gold, but a great fortune lasting for a century. He brought shrewdly to the strangers' notice the two tracts lying within his parallelogram of leased territory. They instantly inquired why

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these tracts were not included, and he replied that at the time the company leases were taken they could not be had, and now he could not secure them without the consent of the stockholders, a thing impracticable. He would take these two tracts in his own name, but such an act might subject him to criticism. This was, of course, a lie. The roustabout from whom Shelton had secured his leases omitted these tracts because the owners demanded twenty-five cents an acre bonus. Around these two tracts Shelton masked his arts of suggestion. He wished these men's fingers dipped with his in the dish, a little of their gold on the table, a wager left here behind them on the spin of the wheel.

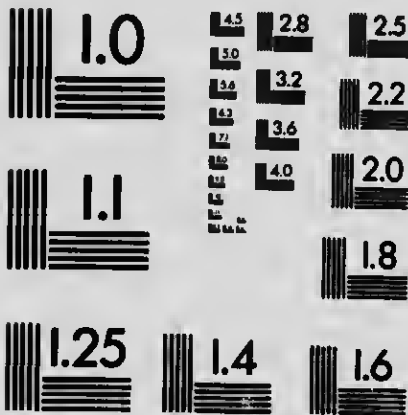
When the two bank directors returned to New England, they took with them the fee simple titles of these two tracts. They took with them also the impression, but not the certainty, that Captain Shelton was merely an adventurer. Able to judge accurately any situation in New England, they were at sea here. The bank in Pittsburg was certainly solvent. The territory advertised by Shelton was certainly covered by his leases. It was a land where Fortunatus drunk was swinging his purse by the strings. Who could say upon what passer the gold would fall!

Eighteen months later, the Union Consolidated Oil Company was dissolved and its stock cancelled. The bank returned the deposits and paid Roger Shelton eighty thousand dollars in interest. He feared to place this money in bank lest someone suing



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him might attach it, and kept it in a safety deposit box of a New York trust company. He had learned that the two bank directors were now in New York, and had hurried here hoping to purchase the tract of land he wished; but, on reflection, he hesitated to approach them. They would now be greatly suspicious of him, and he would not risk having the deed taken in the name of any other person. He desired to get hold of the tract lying over the synclinal, and he would, if necessary, give all the money he had for it. This was the story skillfully unmasked by Randolph Mason.

The captain, when the cat was out, began to regret his rashness. His secret had escaped him; it was an indiscretion to be amended by greater caution. He was taken swiftly with a trembling seizure of suspicions.

“You have overlooked the names of these gentlemen from Massachusetts,” said Randolph Mason.

A certain cunning dodged along Captain Shelton’s features.

“I have not overlooked it,” he replied. “I don’t intend to tell them. I expect my regular lawyer to be present when these men are seen. I came to you for a plan. When I get that, my lawyer will do the rest. I don’t mean these Yankees to sleep on the trade. The deeds and the cash will go on the table together. When they are exchanged, the matter will be ended. That’s my way of doing business. Now, what’s your plan?”

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"My plan," said Mason, "will conform to your way of doing business. Have these men here at two o'clock. Let them know nothing of the object of this conference. But you, on your part, take every precaution. Come a half-hour earlier with your attorney. Bring the deeds and the cash with you. Bring also a notary. I would have you take no chance. I would have you omit no safeguard which your instincts suggest."

Captain Shelton was greatly reassured; but a doubt remained.

"If I come, they won't sell," he said. "That's the very trouble I'm trying to get around."

"I will get around that," replied Randolph Mason.

"Then," said Captain Shelton, "you will have to pretend to represent some one else, and leave me to my lawyer."

"Your foresight is amazing," replied Mason. "I shall leave you entirely to your lawyer. I shall pretend to represent, let us say, the stockholders of the Union Consolidated Oil Company."

"Good!" cried the captain, "that lie will do the work!"

Randolph Mason arose, and waited for his visitor to depart.

"I think," he remarked, "that it will do the work excellently."

The men who met in Randolph Mason's private office were of most incongruous types. My visual

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memory of this conference remains clear-cut, like the climax of some drama; there was the notary, a tired old man, looking on unconcerned from a chair by the door; Captain Shelton, his under lip painfully tightened, seated on one side of the library table with his attorney at his elbow. This attorney merits a word of comment: he was the ablest practitioner of his class in New York, a class abandoned wholly to intrigue, schooled smatteringly in the law through attendance and experience at trials, but past masters of trickery; he was a little, rotund man, bald, with a fringe of hair running from the top of one ear around to the other; a face as expressionless as wood; eyes steady as though set in by an optician. The man's hands alone betrayed his thoughts—they were as nimble as the fore-paws of a mink. Opposite were the two New Englanders, an uncle and his nephew,—the elder, tall, grave, somber; the younger, a youth but lately out of college, of superb physique, athletic, powerfully built, his face fresh with health, his hands suggesting the strength of ivory—and Randolph Mason, walking up and down by the book-cases.

Mason introduced the matter with this remarkable statement to the men from Massachusetts: He represented certain of the stockholders of the Union Consolidated Oil Company, acting for the benefit of all. The stockholders of that company had lost in interest on their deposits, through Captain Roger Shelton, some eighty thousand dollars. This money

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Captain Shelton was now ready to return. He wished to do so through these directors, leaving them to distribute it in detail to the stockholders. However, in the manner of this restitution, Captain Shelton wished to avoid the appearance of compounding a fraud. Mason had, therefore, called this meeting to propose that these two directors sell their tracts of worthless oil territory to Captain Shelton in consideration of this money and, after deducting their individual expenditures, refund the balance of it to the various stockholders of the Union Consolidated Oil Company.

The two bank directors, who had been until now greatly mystified, agreed instantly to this proposition, the elder speaking for the other. They considered their investment in this oil territory somewhat in the nature of a trust, and had determined to hold the tracts indefinitely, in the hope that at some future time they would yield enough money to repay what the stockholders of the company had lost. They had gone to Pittsburg as envoys, in a way, for the stockholders, and any gain arising from that journey was equitably the property of all. They had consequently asked one hundred thousand dollars in cash for each of these tracts, and had agreed to pool the two properties, so that if oil were ever discovered on either tract, it would pay in full the losses of the stockholders. This price they knew to be prohibitive, but the tracts were either to adjust the matter or remain unsold until the end of time.

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The Pennsylvanian, sitting with a calf-skin satchel on his knees, observed the difficulty in the way of his fortune thus easily overcome with a sudden mounting joy he could not wholly conceal. His face fell into the sanctimonious expression of one who, at the cost of abnegations, would be perfect. Even the hands of the inscrutable attorney opened wide their fingers as in admiration of a master. The next statement of Mason won still further their amazed approval.

He said that the two sales must be understood to be complete and separate transactions, concluded absolutely in every detail upon the signing of the deed, and, in order that no claim could be afterward set up that in this sale Captain Shelton took advantage of any secret knowledge of the value of either of the two tracts, he suggested that Shelton be permitted to select the tract which at this time he considered the more valuable, in order that his opinion might be known before the deeds were signed, pay for it seventy-nine thousand dollars, and take the other tract at a nominal sum, say one thousand dollars. Then if either tract should prove in the future to be oil-producing, Captain Shelton could enjoy that good fortune free from any imputation of deception in its purchase.

The attorney's nimble fingers danced on the rungs of his chair—this piece of strategy was excellent. Shelton, too, instantly saw its wisdom. If he took, now, the worthless tract at the large price, the very fact of this selection would conclusively prove that

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when this worthless tract was purchased he knew nothing of the fabulous value the other. His good faith, his innocenc of secret knowledge, would be here and now irrevocably established for all time to come. Those who sold estates for pottage usually came crying to the courts, and if the deeds showed on their faces that the purchaser was himself mistaken in the value of these estates, that cry would fail. Separate, the two sales ought also to be, that no one other than the signer of the deed could afterward claim an attaching equity.

The two New Englanders assented to this, and Captain Shelton instantly selected the worthless tract. The attorney took two deeds from his pocket and laid them before him on the table. He then stated in detail the terms of the purchase; seventy-nine thousand dollars in cash for the tract of twelve hundred acres, one thousand dollars in cash for the tract of nine hundred acres; the two sales distinct, separate transactions directly between the parties named in the deed. He wished this agreement clearly understood. The sentimental reason moving Roger Shelton to this purchase, as given by Randolph Mason, was an observation beside the point. He alone represented Roger Shelton. The purchase of these tracts was now a clean-cut matter of business, showing wholly on the face of the deed. Then he took up one of the deeds, wrote into it the consideration, seventy-nine thousand dollars, and handed it to the younger man, who, it happened was the owner

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of this tract. The latter looked swiftly over the deed and signed it, the notary took his acknowledgment, affixed the seal and returned the deed to the attorney, who looked over it and nodded to his client.

Captain Shelton set his calf-skin satchel on the table, unlocked it with a brass key, took out a thousand dollars in one-hundred-dollar bills and pushed the satchel across the table.

"There's your money," he said, "and I throw in the satchel."

The New Englander took the money out in packs, counted it and put it back; then he reached over on the table, took the brass key, locked the satchel, set it down on the floor between his feet and tucked the key into the pocket of his waistcoat. The attorney put the executed deed into his pocket, wrote the consideration of one thousand dollars into the other deed and pushed it, likewise, across the table. The elder New Englander spread out the deed before him and carefully read it, his forefinger moving slowly along each line. When he came to the end, he fixed his eyeglasses a little more securely to his nose, took up a pen and dipped it into the ink-pot. At this moment, Randolph Mason, standing behind him, leaned over swiftly, picked up the deed and tore it in two.

Instantly Roger Shelton threw himself across the table, grabbing for the leather satchel. The younger New Englander, amazed at this violent incident, but instinctively determined to protect the money now

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in his possession at any cost, gripped the handle of the satchel with his right hand and, rising a little, struck the Pennsylvanian with the clenched fingers of his left. The long body of Captain Shelton slid back, across the table, crashing into his chair. The little bald attorney was immediately on his feet, his fingers twitching like live electric wires, but his face still as expressionless as wood. He saw instantly that his client had been outwitted, trapped and, perhaps, ruined; that the attempt to recover the money by force had failed; that further deception and intrigue would likewise equally fail. This athletic young man, muscled like a blacksmith, his hands clenched, his shoulders thrown loosely forward, it were folly to assail with blows. It were equally folly to assail with wiles that other there, calmly tearing the deed to ribbons, running the strips of paper backward and forward through his fingers.

The plan had crashed without a tremor of warning, and yet the attorney's presence of mind was not a whit shaken. His face held its set like plaster, not a nerve quivered, not a muscle sprung—he had been schooled to meet the unforeseen. He had gone through a thousand staggering crises where the life, the reputation, the fortune of his client were in a flash periled. He understood instantly, judged the situation, and acted at once. He thrust the pack of one thousand dollars, left lying on the table, into his pocket and helped his dazed client to his feet and to the door. Then he turned back to Randolph Mason.

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"Your destruction of this deed will not do any good," he said. "The contract for the sale of this tract of land was definitely made and concluded, here, in the presence of this notary as a witness; the signing of the deed is a mere physical act in no way affecting this sale. I shall at once institute a suit for the specific performance of this contract of sale and have a court commissioner make the deed, if this man refuses. The testimony of the notary, as the only disinterested person present, will insure the success of that suit."

Mason did not at once answer. He stood looking closely at the man as one might at some unusual phenomenon in nature. Finally he spoke, as though seeking to induce a comment.

"You will hardly institute such a suit, I think."

"Why will I not institute it?" replied the attorney, his voice rising to a stronger volume.

Mason advanced slowly with his verbal prodding.

"Well," he said, "let us say that such a suit would be founded on a moral wrong. This tract of land is thought by your client to be fabulously rich. It lies, I believe, above a synclinal in the oil-bearing strata. That is, it contains the oil reservoir of the whole region around it. It is worth, your client tells me, a half-million dollars. To take it from the owner for a mere thousand would be a striking injustice. If the law permitted this wrong, would your conscience permit it?"

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The attorney standing at the door laughed without disturbing the muscles of his face.

"We will take exactly what the law gives us," he said.

"I thought that," replied Randolph Mason, his prodding ended, his voice now lashing like a whip, "and, therefore, I have taken care to see that the law does not permit this wrong to become effective. If you look at chapter ninety-eight of the Code of the state in which this oil territory lies, you will discover that no contract for the sale of real estate can be enforced in its courts unless that contract, or some agreement or memorandum of it, be in writing and signed by the party to be charged thereby or his agents. A contract for the sale of land in that state may be made in the presence of a hundred witnesses, every detail agreed to, the bargain struck, assented to, ended, and yet it cannot be enforced in its courts without some signed writing. This act is called the Statute of Frauds. I commend it, likewise, to you for the value of its name."

The hope rising in Roger Shelton's eyes, called up by the words of his counsel, died there. His mouth, bleeding from the impact of his enemy's knuckles on the bone, fell into a baggy gaping. He turned painfully through the door. The attorney remained a moment, looking at Randolph Mason. He had been outwitted, balked, juggled with, then grilled on the fire, and yet he came forth unmoved, a Narraganset from the stake. He followed his

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client slowly out, his face placid as though every nerve in it were cut.

The two bank directors, realizing now the full import of Mason's remarkable strategy, came forward with profound expressions of thankfulness. The unfair gains of a rascal had been skillfully choked out of him. Restitution had been made to tricked persons, and yet nothing of value had been lost. The eldorado sighted was there, remaining in its owner's hands. It was like some altruistic adjustment, written into the journal of a dreamer.

Randolph Mason cut short these speeches with a gesture of impatienee.

"Gratitude," he said, "like regret, annoys me."

For the legal principle involved in this story see Sec. 1 of chapter 98 of the Code of W. Va., called the Statute of Frauds.

CHAPTER X

THE VIRGIN OF THE MOUNTAIN

ON any Sunday evening of last year one could have seen the Marquis Mazaecra dining at the Dresden, on Fifth Avenue. The observer may not have known this remarkable man nor anything of his history, but he would instantly have noticed his fine, sinewy figure, and his features, clean-cut and regular like those of an Italian bronze. The marquis wore an evening coat fitting snugly to the waist and squared a little on the shoulders, after the fashion of the tailors of Vienna.

It is well to remember that every foreign country maintains a kingdom lying within the boundaries of this Republic. I do not mean that fiction of sovereignty attaching to the legations at Washington, but a phantom state rather, keeping the customs, the traditions, even the very laws, of the mother country. No numbered boundary posts mark the limits of these foreign kingdoms; our police walk unwittingly through them as one does through a shadow; the grip of our courts on them is but a hand closing on a shadow. After the shouts, the blows, the musketry, there is still the shadow on the wall. The authority of a government can be enforced only over that which

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may be felled with a bullet—one cannot pistol a ghost.

It was only in this kingdom of Italy that Signore Mazaccra was a marquis. Uptown in New York, he was merely a star of heavy opera, one Ricardo Robini, with a voice like that of many sirens. He could be heard of a winter night, a fluting pipe in Herr Wagner's mammoth organ, for not more than half an eagle, and later, for no fee at all, over a midnight dinner in counsel with some dreamy-eyed disciple of Dusc, if one came luckily to the same inn with him.

To that generation which sets Paradise behind a stage curtain, Signore Mazaccra was a happy half-mortal, knowing neither good nor evil, a faun of Praxiteles, full of laughter; one born from a mysterious union of some sun-god with a woman of Tuscany under olive trees on a summer afternoon. There were no cares, no obligations, no deeps of feeling in that beautiful face, only the first lights of the morning with the promise of everlasting youthfulness. And yet the man, plying this emasculated trade, was in fact a ruthless, calculating, steel-nerved sentinel, presenting himself, thus singing, in the world's most public places, and reporting each night to that phantom kingdom of Italy, set down like a well-fitting shadow over the streets and buildings of New York.

The Marquis Mazaccra lived openly, lodged in a suite at the Dresden, maintaining a private hansom

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with his crest in silver on the harness, thrilling night after night those thousands who packed themselves into the great theater in New York, with notes stolen from Pan piping wondrously in some wooded hollow. And yet for weeks the District-Attorney of New York had known that this man ought to be in the electric chair; his assistants knew it, the police officers of the city knew it. On a memorandum in a pigeon-hole of the District-Attorney's desk, he was written down as guilty of murder in the first degree—wilful, premeditated murder. The details of the crime were there, the statement of the victim, naming the Marquis Mazaccra, was there. The iron-nerved marquis was not concealed on the day that memorandum was written, nor on any day after that. The police could have laid their hands on him in five minutes in his opulent housing at the Dresden, and yet he slept under silk coverlets, dined sumptuously, rode up and down the city in his hansom, and the District-Attorney neglected, nay, it should be written, refused, to apprehend him on a criminal warrant.

Let us not too hastily denounce this District-Attorney of New York. He is an incorruptible public servant, able, persistent, fearless. His reputation stands for that, and this reputation came not suddenly through the rubbing of any fairy lamp; but laboriously builded by the sweat of his face. His record could in no wise be that of one fearing those in high places or fawning elsewhere for thrift; neither is he a person moved by sentiment or the simperings

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of emotion before crime. He is a hard-headed, practical lawyer. Why, then, this immunity to the Marquis Mazaccra, as of one heaven-born, amenable to no law? Why was he not sent promptly to the electric chair, and, afterward, to dimmer audiences? To know this it is necessary to know first a chapter of Italian history.

If, when one is dropping his copper tribute into the dish of the collector at Sorrento, he will look to his left-hand along the Bay of Naples, he will observe a villa built of ancient Sicilian marble clinging like a bit of flung-up sea-foam to a little promontory of the shore, having for background a lemon grove, the thick branches supported by a lath trellis, like that commonly built for vines. Below is the sea with its ever-changing patches of color, reached by a wide stone stairway ending in the water. In the month of May and, again, in the month of October, this fragment of the world is not in point of beauty second to that first fragment by the Euphrates.

When the singing marquis came into his inheritance, there remained only this villa, the half-acre of lemon grove and the steps to the sea, out of what was once the finest estate in Salerno. Even the treasures of the villa had, for the most part, gone elsewhere in exchange for lira, that the dissolute father of the marquis might maintain to the last day his midnight court of revels for the ballet of the Neapolitan opera, coming up the stone stairway, laughing, shouting, singing bits of dissolute songs, as though escaped by

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some enchantment from the halls of Morgana the Fay, under the sea.

The old marquis could not give up his place at the head of this Saturnalian stairway, host to these abandoned daughters of Thespis. He gave up, rather, the orange groves, the olive presses, the vases, the bronzes, the rare coral, the nymphs of Della Robbia, rather than these live nymphs. One night, crowned with a wreath of wilted roses, brought by the first arrivals from their dancing floor, the old marquis, running forward to welcome Laretta Matteo—the white devil of Naples—stumbled, and was himself welcomed by the master of all devils.

The young marquis, arriving swiftly from a military school at Milan, found himself to have inherited a corpse, and little else. Every item of his inheritance had gone down the stone stairway, except this patch of garden, this house, this dead body of the marquis, and an ancient painting of the Virgin hanging in its heavy frame in the hall. This painting the old marquis had not dared to sell, having a care for the welfare of his soul. Perhaps, also, a care for the welfare of his body into the bargain. It was painted from some round-faced Tuscan model of middle age and was wholly without beauty except its coloring, which was wonderfully fresh and bright. Nevertheless, it was the most adored Virgin in the south of Europe, with a miracle to its credit beyond that of any Virgin of the cathedrals—not a mere straightening of legs or a healing of afflicted infants, but the saving of the

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whole village of Torre del Greco, its meadows, its crops, its villas, its churches, its gardens, as well, also, as its cripples and its babies.

The manner of it was that on a certain good Tuesday, with scarce a rumble of warning, Vesuvius began to pour forth ashes, sulphurous fumes and lava. The alarmed but pious people of Torre del Greco began at once to carry in procession every holy relic to be found in any of the churches, but without effect. The sulphurous cloud remained, the ashes continued to fall, the black, viscous streams of lava drew always a little nearer, scarifying the meadows like hell-vomit. When the list of these holy objects had been exhausted, a certain padre of Sorrento remembered the Virgin of the Marquis Mazacra, and went instantly in a boat to borrow it. It was carried through the streets of Torre del Greco behind lighted candles. That night the eruption of Vesuvius ceased, and the marquis's Virgin was on the instant famous. She was called now the Virgin of the Mountain. There was an immediate clamor for the painting to be set up in a cathedral, but the old marquis met this with a choice selection of Neapolitan oaths. She was his Virgin, for all this fine stopping of the lava!

There might have been a stiletto in the marquis then, but for the suave padre who had first thought so luckily of the Virgin. He came forward, suggesting that, after all, would it not be wiser to leave her where they had found her? Seeing so much evil there,

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would she not be more desirous to do a little good when the need was pressing? There was sense in that, and human nature as well. So the Virgin went back into the villa of the Marquis Mazaera, a thing no other Virgin ever did.

There is this virtue in a miracle, that one does not have to repeat it, like a clown's trick, to keep one's reputation shining. The Virgin of the Mountain continued the patron of Torre del Greco. Twice a year, in May and again in October, the painting was borrowed of the marquis and carried in procession through Torre del Greco, with a thousand wax candles, a great chanting of hymns, a festival of the harvest, a mighty drinking of white wine, and with the village lighted that night by a myriad of little glass pots, each holding a red candle burning in the bottom of it. It was little enough honor to so excellent a patron, because if one looked at the matter rightly was not that first miracle continuously effective? There was Torre del Greco unconsumed! One could whistle at Vesuvius with such a Virgin at his back.

It was May and but seven days before the festival of Torre del Greco, when the old voluptuary of Sorrento fared forth so swiftly with a guest he had not invited. The new marquis was scarcely warm in his bare house and the old one cold in his before the procession of boats, each with its comfortable priest, came to the stone steps and bore away the Virgin of the Mountain to her semi-annual worshipping. It

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was the common blue-skied, sunny-aired day of festival, with every detail of the usual ceremony, and, unhappily, a further detail added by the Fates, or, more likely, the mountain, hitting back. An American tourist chose that morning to ascend Vesuvius. Passing through Torre del Greco, he was met by the procession of the Virgin, and his driver was ordered by the priests to pull up by the roadside until the holy ceremony be ended. The tourist, standing up on his carriage seat, observed that the procession was not likely to pass within any reasonable time, and as the ceremony was in no wise holy to him, a fact which he stated clearly enough in his own language, he ordered his driver to go on. The driver declined, having, like the old marquis, an eye to the welfare of his soul, whereupon the tourist, not caring a whit for his soul, caught up the lines and drove into the procession.

A crowd of women with their hair streaming down their backs were passing at that moment. These promptly seized the horses, cut the traces of the harness, pulled the linch-pins out of the axles, and trundled the carriage into the gutter. They then, in a variety of ways, explained to the tourist the esteem in which they held him. He, likewise, gave his views no less picturesquely, finally declaring that he would buy the confounded Virgin as soon as he got down from Vesuvius, and hang her up in a Carnegie library—a threat at that moment lost on the un-Englised peasants of Torre del Greco, but otherwise an expres-

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sion fated, like an oracle. It was not lost, however, on the guide who sat beside him, but accurately remembered and accurately repeated in reply to innumerable queries, *in his verbis*: "The confounded Virgin," "A Carnegie library," words unintelligible; but not unintelligible the word "buy"—the very infant beggars of the gutter knew that word. Buy the Virgin of the Mountain! To what depths of sacrilege would not these rich Western savages descend! Buy, rather, one's baby, plucked sucking from the breast, milk on his mouth, or the holy dish in which Joseph of Arimathea caught the blood of the Saviour!

One does not know what hand the long-baffled mountain took in the business. At any rate, the following morning the American called on the new marquis and asked him to name a price for his picture. The young man declined. The American offered a thousand lira, then ten, finally twenty. The marquis still declined, and the American in disgust returned to Naples. The young marquis locked up his house and went to the inn at Sorrento for his dinner. This hostelry is maintained by the pleasantest thief in Italy. Over his wine the marquis had the incident of the procession related with endless comment; so many gesticulating witnesses came forward to be heard that the marquis was compelled to remain the night under the roof of this pleasantest thief. When he returned at sunrise and opened the door of the villa with its iron key, he found the Virgin of the Moun-

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tain vanished; the canvas had been cut out of the frame.

The man, overwhelmed with this tremendous disaster, sat down on a bench in his hall, covered his face with his hands and abandoned himself to despair, forgetful of the open door and the sun now shining through it. He was aroused by a voice offering him the salutation of the morning and the benediction of God. He looked up to see the padre of Sorrento standing in the door. The old man had come early, tramping down the mountain through the wet lemon groves, to warn the young marquis against that devil's threat of the American and to bring peace to his house.

The young marquis took one of his hands from over his face and pointed to the empty frame hanging on the wall. The padre, following his finger, groaned like one struck with a mortal agony and backed slowly out of the door. Then, livid, quivering, his teeth rattling like castanets, he cursed the new Marquis Mazaccra with hideous, excoriating curses.

"Thou who hast sold, like Judas, not Christ, but the Mother of Christ!"

The boy leaped up like one prodded with a hot spit.

"No, no, padre!" he cried, "I have not sold it. It was stolen. See, it was cut from the frame. I have not sold it!"

The old man pointed a long, shaking finger over the threshold.

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"Thou art a liar," he said, "like thy master, who is the father of liars."

Then he gathered his skirts closely about his legs, shook the dust from his feet and went swiftly down the steps.

The boy instantly saw the hell-storm that would descend on him when the padre got back to his people with the news. The whole village of Torre del Greco would empty itself up his stone stairway, he would be bound, weighted with a mill-stone and dropped into the Mediterranean. No denials would avail him against the anathema of this terrible old man, fired with revenge for an insult heaped on the Mother of God.

He gathered quickly what he could carry tied up in a cloth and fled to Naples. A steamer was just going out of the harbor for America. He went aboard, took his place in the steerage with the emigrants and came to New York. Here he repaired directly to those in authority over the phantom kingdom of Italy and laid the entire matter before them. In this new kingdom, as in the old one, he was the Marquis Mazaccera and a person of peculiar distinction. Moreover, here his story was believed. There was precedent enough. More than one time-honored painting of the saints, treasure of the mother-land, had been spirited into America after catching the eye of some fabulously rich barbarian tourist. There were men in Naples who could be got to do anything for a handful of lira, even the work

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of Iscariot. Besides, the boy came in the steerage, with scarcely clothes to his back. If he had sold the picture, he would have gold. Twenty thousand lira was something of a fortune.

The new kingdom of Italy decided for the marquis and went into secret counsel on his case. The young man had a plan of his own. He knew the face of the American who had come to buy the Virgin of the Mountain, and he had, also, the finest voice in the military school at Milan. Why not, then, get a place in Grand Opera, if it could be managed. There could be no better station for a sentinel posted to find a millionaire than that. Sooner or later the man would come in with such audiences if he were living.

The matter was easily managed through Filippo Marchesi, himself an Italian born in Amalfi, a son of those fishermen to be seen sleeping at noon on the white sand, by an arm of the Mediterranean under the king's road running to Pagani. Thus the Marquis Mazaccra became one Ricardo Robini, a paid singer in a theater, but also a sentinel watching while he sang, and reporting constant failure to those in authority sitting on the East Side of New York. But if he failed to find the man he was seeking, he failed not to find the fame he was not seeking. In the Marquis Mazaccra's throat was a voice descended from the stars. He gained swiftly everything to be had over a footlight. Within five years he was richer than any other marquis born in the villa at Sorrento. That shade of Thespis, a specter

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of ruin to the elder Mazaccra, was now a beneficent genius bringing endless gifts to the younger. With the American gold, through an agent in Naples, he brought back up the stone stairway, the orange groves, the olive presses, the vases, the bronzes, the rare corals, even the nymphs of Della Robbia that his father had sent down it.

More Northern and colder blood would doubtless, after these years, have given up the Virgin of the Mountain, and gone about an enjoyment of its much goods, like that certain rich man. But not so this blood, brewed in its sun-vat by the Mediterranean. The quest of the Marquis Mazaccra was charged with a passion for revenge; a motive, it is said, holding the Italian to a labor and denial possible to a Saxon only when he wishes to acquire the lands of another. So the sentinel remained in the house of Orpheus.

All this was related in minutest detail by the servant Pietro to Randolph Mason. The occasion for it was the finding of the Virgin of the Mountain. Not by the Marquis Mazaccra nor the host of Italian servants in New York, all commissioned by the authority on the East Side to search, but by accident. An Italian paper-hanger, sent to help with the interior decoration of a house on East Forty-eighth Street, had discovered the painting rolled up in a closet of a room on the second floor whose door he had opened to find a place for his paste-pots. The house belonged to Tolman Perkins, a retired

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iron manufacturer of Pittsburg. This man, like all those who, having got a fortune by middle life and having come to New York to enjoy it, had found inactivity unbearable, and had gone wandering over the earth. He was about to return from a three-years' sojourn entering through the Japanese East, and the care-takers were getting the house in order for him.

The fame of Randolph Mason had been carried by Pietro into the kingdom of New Italy. The authority there wished to know how the picture might be recovered and adequate vengeance visited on Tolman Perkins. Pietro laid the matter before Randolph Mason one night after dinner. He crossed himself devoutly as he spoke of the great sacrilege—the Marquis Mazacera, a noble, driven into exile; the poor peasant of Torre del Grecco, so long without protection against the smoky mountain of devils; and such an insult to God's Mother! This thieving Perkins would certainly be himself framed in brass and hung up in the hottest bowl of Vesuvius for all eternity when at last God judged him!

But, meanwhile, the canvas must be returned to its place on the walls of the villa at Sorrento, and the marquis also returned, a resurrected noble, to his estates; the accursed Perkins made to pay blood-money. After that, he could be abandoned to the vengeance of God. The authority of New Italy was of this sensible opinion.

Randolph Mason bade Pietro sit down in a chair before him, and he explained with the greatest pa-

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tience the avenues of redress. A suit could be instituted in the circuit court of the United States by this Mazaccra, a subject of King Victor Emanuel the Third, of Italy, against Tolman Perkins, to secure the painting and adequate damages. The picture could be taken, meanwhile, into the custody of the court by a proper writ. This was the direct legal plan available in such a case, and to be advised. If this authority on the East Side preferred not to go with such a matter into the courts, then he would give it a plan by which the matter could be adjusted without the running of any writ. But first, Pietro should go back to New Italy, state exactly what Randolph Mason had said, and learn which of the two plans the authority there preferred to follow.

But, in the meantime, the Marquis Mazaccra had elected to follow his own plan. Taking the place of the Italian paper-hanger who had found the picture of the Virgin of the Mountain, and disguised as that workman, he went on the day following the discovery to the house on Forty-eighth Street and brought the painting away with him enclosed in a roll of burlap.

Pietro reported to Randolph Mason that the stolen picture had been thus recovered and that the authority of New Italy now considered the matter ended.

The Marquis Mazaccra, however, did not consider it thus ended. The score with Tolman Perkins remained yet to be settled. The Latin mind was not accustomed to the idea of punitive damages at law for an injury. The Saxon and the Teuton might

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hale his enemy before a court and make him pay down money, but such a plan was repugnant to an Italian. Early peoples, long anterior to courts, have held revenge to be a certain principle of justice: the Mosaic law stood squarely on that human conception. Such an adjustment of wrongs appears in nature to be ethically correct. A return in exact measure of the injury received seems, somehow, among men to be the only adequate conception of equity. The literature of all nations shows this to be true. The final act of any melodrama to-day constructed to meet the popular conception of justice shows it, likewise, to be true.

Northern peoples have accustomed themselves, after long effort, to the turning of these matters of revenge over to a third party for adjustment in tribunals created for that purpose. But not easily so those peoples with the sun in their blood.

This is a right of man which the Latin will hardly delegate to another. The resolute marquis again took the situation in his own hands.

ON a certain Sunday morning, a few days after the recovery of the picture of the Virgin of the Mountain, New York was astonished by a homicide belonging, in its deliberate, cruel and theatric details, to some inquisitorial era. Mr. Tolman Perkins, a bachelor, was found by his valet at seven o'clock on this Sunday morning, in the library of his house on

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Forty-eighth Street, in a dying condition. Mr. Perkins had but lately returned from an extensive Eastern tour and was temporarily living alone with his valet in the house, going out to a neighboring hotel for his meals. This valet had left his master reading quietly in the library at eight o'clock Saturday night, and had gone to spend the night with his brother, a gardener on one of the estates on Long Island. When he returned at seven o'clock Sunday morning and let himself into the house with his latch-key, he found his master tied into his chair, a gag over his mouth, and a vein opened in his throat, from which his clothing and the carpet on the floor were saturated with blood. The chair, a heavy oak one, was pulled directly before a full-length mirror. The library lamp had been placed on a chair beside the mirror so that the man, thus placed, bound and gagged, could watch himself slowly bleeding to death.

To heighten this ghastly theatric effect, he had been gagged with a heavy iron crucifix, wrapped in an altar cloth, his feet, hands and body bound with ropes such as a certain order of priests wear around the middle, and a small print of the Virgin Mary stuck in a corner of the mirror. Nothing in the house had been disturbed. Mr. Perkins, insensible from loss of blood, was taken immediately to a hospital and a saline solution injected into his veins. He revived a little and attempted to talk, but was unable to do so. A pencil was put into his fingers

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and he was asked to write the name of the person who had attacked him. Finally, after repeated efforts, he wrote the following words:

“It was that Italian, the Marquis Mazaecra, who did it. When I get well I will kill him.”

He died at three o'clock.

I happened to be with Randolph Mason at about five o'clock on this day when, through the window, I noticed Pietro enter the back gate of the house with an Italian fruit-vender. The man was carrying a basket and the two were talking earnestly together. I was surprised a few moments later when both came into the library. Randolph Mason was standing with me by the window. He turned when the door opened. Pietro came swiftly forward to the table in the middle of the room.

“Oh, Mr. Mason,” he said, “a terrible thing has happened! The Marquis Mazaecra is lost!”

Then, hurriedly, gesticulating with his hands and shoulders, he poured forth the whole story: How a wax impression of the lock on the Forty-eighth Street house had been taken for the Marquis Mazaecra after the picture of the Virgin had been brought away, and a key made; how with this key the marquis had admitted himself to the presence of Tolman Perkins in his library, seized him from behind as he sat reading by his table, and visited upon him this ghastly ordeal of retributive justice; how Tolman Perkins, contrary to every human possibility, by reason of a blood-clot forming in the wound,

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had lived long enough to tell who had killed him. The Italian janitor at the hospital had made a copy of his dying statement; the Marquis Mazaccra was instantly notified, and by the direction of that authority on the East Side, of whom I have spoken, had come instantly, disguised thus, to Randolph Mason. He was there by the door.

I looked at Pietro's companion with astonishment. He was a tall, powerful, but sullen and dirty Italian, the typical Neapolitan vender of stale oranges.

"Let me see this statement," said Mason.

Pietro handed him a piece of wrapping paper containing these lines in pencil:

"It was that Italian, the Marquis Mazaccra, who did it. When I get well I will kill him."

Over Mason's arm I read the fatal words of the dying man. This Italian had need to be the most typical vender of stale oranges in all New York. The Marquis Mazaccra was, indeed, lost. He had need to be lost, to be blotted out, from this Sunday afternoon thenceforth. This voice, calling back through the door of death, hailed the Marquis Mazaccra to follow by the electric chair, pointed him out to the State, spoke his name so all men could hear it. It was one of those unforeseen, mysterious, sinister tricks of destiny whereby all safeguards of human ingenuity are sometimes made of no avail. The only possible hope for the man now lay in the loss of his identity. Happy, indeed, to be a vender of stale oranges! He had come too late to Randolph

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Mason. There was no escape now, if the law of New York ever identified the Marquis Mazaccra.

I waited to hear Randolph Mason coldly point out to Pietro that, as this man had elected to take the matter into his own hands, he must now abide the result and begone. Instead, he quietly asked the Marquis Mazaccra upon what theory of the adjustment of injuries he had deemed it necessary to kill Tolman Perkins.

The vender of stale oranges came forward then, his head up, his face resolute, his voice when he spoke, vibrant.

"You have doubtless," he said in excellent English, "heard from Pietro here the story of the Virgin of the Mountain?"

"Yes," said Mason, "but that injury in itself does not seem to justify the counter-injury of death. What I wish particularly to know is how you arrive at the death penalty as an equitable adjustment of Tolman Perkins's wrongful act."

"You mean," said the Italian, "what man has Tolman Perkins killed that I should kill him?"

"Not quite that," replied Mason; "but have you not returned a larger measure of injury than that received? It is upon this point that I wish to be enlightened."

"A less measure," said the Italian. "Three persons have gone out of God's sunlight because of this dead beast. The Neapolitan bravo who stole the painting for him, struck with terror at his hideous

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sacrilege, shot himself before the altar in the Cathedral at Sorrento; Giovanni Battuchi, the little farmer whose meadows lie nearest to the mountain, fell down dead when he learned that he had no longer the protection of the Virgin; and within the last twelve months, the padre of Torre del Greco, advancing to the foot of Vesuvius with a fragment of the forearm of St. Peter, relying upon the virtue in that holy relic to check a threatening flow of lava, was himself surrounded by the lava and perished horribly within sight of the whole village.

"I conceive," continued the marquis, "that Tolman Perkins was as directly responsible for the death of this poor farmer and this sincere, though perhaps misguided priest, as if he had shot them through the forehead with a pistol. The bravo deserved what he got; but the other two were murdered by Perkins."

"Ah!" said Mason, as though the only difficulty presented in the whole desperate business were now removed. "There remains, then, only the detail of putting you beyond punishment by the State of New York for what the law will consider to be a murder."

I have never grown accustomed to the indifference with which Randolph Mason regarded those stupendous legal problems held usually by men to be impossible of solution. The detail of putting this man beyond punishment by the State of New York! There is, on this earth, no authority so far-reaching, efficient, tireless as that of a government in pur-

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suit of a capital offender. The police of every civilized state are its allies. Its writs of extradition run even in the islands of the sea. Had not the unforeseen arrived, had not the dying man named his killer, the crime might never have been unraveled, and the marquis safe. But now, only the holes in the earth were open to him. I waited to hear Mason point out some method of safe and speedy flight. When he spoke, I doubted the hearing of my listening ears.

"You will at once," he said, "abandon this absurd disguise, and immediately return to your usual life at the Dresden, conducting yourself there as though nothing unusual had happened. Refuse to be interviewed. If you are fortunate enough to be arrested, decline to make any statement whatever and send immediately for me."

Fortunate enough to be arrested! If I had been standing there in the perilous shoes of this man, I should have refused that counsel. But the Italian marquis was of weaker, or else of infinitely sterner, stuff.

"Sir," he said, "I never in my life have been accustomed to take directions from any man; but since I have come to you for directions, I shall implicitly obey them."

Then he picked up his basket from the floor and went out of the room, followed by Pietro.

I stood at the window and watched the two Italians go down the walk to the street. Pietro was

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talking earnestly, gesticulating with his hands. I thought him pleading for a confidence in Randolph Mason, for a trust in the wisdom of his counsel which the Marquis Mazaccera could hardly have entertained. I began to wonder vaguely if Randolph Mason really intended this man to escape the electric chair. If it were not rather his plan that the Marquis Mazaccera should be executed for the killing of Tolman Perkins. Might it not be that such a result was necessary in Randolph Mason's view of the equity of the matter, under his curious mania for adjustment? Among so many improbable things this was not wholly improbable.

From the great newspapers of America nothing can be hidden; neither a flight on the wings of the morning nor a dwelling in the uttermost parts of the sea provides adequate cover. On Monday morning the whole story of Tolman Perkins's killing was laid in detail before the world under gigantic headlines inquiring who the Marquis Mazaccera was. On Tuesday morning, these newspapers, with equally imposing headlines, not only answered this query of the day before, but pointed out where the Marquis Mazaccera was to be found, gave innumerable pictures of him, listed the articles of his wardrobe, described in microscopic detail his lodgings at the Dresden, identified him with the singer Robini, and put then the third query—What motive induced the Italian to kill Tolman Perkins? On Wednesday, this

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great press, fitting in omniscience to the imagery of the Psalmist, likewise answered this query with a fairly accurate story of the stealing of the Virgin of the Mountain and the expatriation of the Marquis Mazaccra. The theory of motive then was that Tolman Perkins had caused this painting to be stolen, had carried it to America, and had been hunted down and killed in order to recover the picture and avenge the injury.

Having thus assiduously cleared the matter of mystery, it awoke on Thursday to a realization of the fact that the Marquis Mazaccra was still at liberty, and called upon the District-Attorney to cause his immediate arrest. There he was, living in a palatial suite at the Dresden, going up and down the city as he listed in a private hansom, smiling courteously but answering not at all to the questions of any man. Were the police of the city on a journey, like that god twitted by the Tishbite!

Having thus thrust its elbow into the ribs of the apparently dozing body of the law, it waited with inked presses for the instalment of the story having to do with an examination before a magistrate, and the Tombs.

Friday, Saturday, a week passed, and the Marquis Mazaccra was not yet taken into custody. To the stormy interrogation of public opinion, the Chief of Police replied that he was acting under orders from the District-Attorney. That latter personage, when approached upon the same query, replied with-

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out comment that he was acting under his own orders. The great prints had now indeed a mystery! Why this open, notorious immunity to the singer Robini? In the shadow of what protecting authority did he thus happily dwell? By what potent influences was the District-Attorney brought so openly to neglect the highest duties of his office? Judge, now, how great an outrage was this negligence of the law! But for the energy of these prints, this homicide might have passed unnoticed into the catalogue of mysteries. They had done the law's work for it up to the court door, explained the motive, hunted down, identified and pointed out the criminal. Why, then, was he not seized and punished?

The space writers, waxing vitriolic, began now to speculate; conjecture to wag its double-pointed tongue. Was the District-Attorney corrupt, then? Did he barter underground for the Italian electorate in some larger political ambition? Not probable, either theory. The man's clean, honorable record was a hostage against such palpable villainy. Two theories remained: The Italian Government was taking a hand through its legation at Washington, and so the District-Attorney respected some suggestion from the Federal Department of State; and the less-credited and more sensational conjecture that the murderer, Marquis Mazaccera, was under the protection of those dread secret Italian orders, known commonly as the Mafia, the Black Hand, and so forth. Indeed, a certain sectarian journal de-

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clared this protection to be papal, the shadow of Rome covering the marquis. To such distance did imagination lead, so strong-winged is public hysteria.

Twenty-four hours disposed of this first theory. The Italian minister at Washington stated over his name, in reply to a note from a great editor, that his Government knew nothing of the matter and cared less; whereupon the second theory moved up in the public eye. The District-Attorney was reminded that peril to one's life was not good cause for a neglect of public duty. The common patrolman of the city was constantly walking in this jeopardy; the larger office should carry with it a larger courage; in fact, was not his danger mostly of the fancy? It was hardly possible that the organized police of New York could be tripped up by a set of ignorant criminals.

In the meantime the District-Attorney remained as silent as the unmolested, singing marquis. However, ten days after the death of Tolman Perkins, the District-Attorney did act. He caused the valet to be arrested.

When I told Randolph Mason of this his eyes narrowed and his under jaw moved resolutely forward.

"Parks," he said, "I am coming to have an interest in this District-Attorney. Let us visit him."

Then he summoned the marquis from the Dresden, and the three of us went in a carriage to the Criminal

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Court Building. We were brought almost immediately into the presence of the District-Attorney.

"Sir," said Randolph Mason, "permit me to present to you the Marquis Mazacera."

For a moment there was an expression of the keenest inquiry in the steady eyes of the lawyer, then he arose and bowed courteously.

"May I inquire," he said, "why I am thus strikingly honored?"

I saw instantly that no fears cudgelled this unusual man.

"You have caused an innocent man to be arrested for the killing of Tolman Perkins," said Mason; "we came to say that."

"How do you know that he is innocent?" said the lawyer.

"I know it," replied Mason, "in precisely the same manner that you, yourself, know it, and with the same conviction."

"I would prefer," said the District-Attorney, "to hear the Marquis Mazacera upon that point."

"With pleasure," replied the Italian. "The valet did not kill Tolman Perkins."

"Who did kill him?" said the lawyer instantly.

"Pardon me," replied the marquis; "is not that query a trifle beside the point?"

"Suppose," said the District-Attorney, slowly, "I should cause you to be detained as a witness in this matter!"

"Sir," said Mason, "it would be an act of the

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purest idiocy. He would decline to answer, on the ground that such an answer would tend to incriminate him, and so be immediately discharged. You must, my dear sir, be content with the word of the marquis as a gentleman."

"Why not, rather," said the District-Attorney, speaking even more slowly, "arrest the Marquis Mazacra for this murder?"

"Indeed, why not?" replied Mason. "You are quite convinced that he is guilty of it."

"Do you admit it, then?" said the lawyer.

"Pardon me," said Mason, "I am his counsel and shall always formally deny it."

"Gentlemen," said the District-Attorney, "this interview is preposterous."

"At any rate," replied Mason, "it is ended. Good-morning."

Then he turned abruptly and walked out of the room. The marquis bowed to the District-Attorney and followed Mason, while I came at their heels.

It was beyond any purlicus of the probable that the District-Attorney would now permit this practically confessed killer of Tolman Perkins to leave the building a free man. This interview, for sheer, incredible folly, seemed to me without even an imaginary parallel. It smacked of insane, strutting braggadocio. I saw no common-sense result that such flaunting of a red flag before the law could secure. Mason seemed to be helping the singer Robini into

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the death cell. It must be, then, that Mason wished the man strikingly punished. The language of the District-Attorney was indeed exactly descriptive of this interview, it *was* preposterous! I looked every moment to see an officer touch the Marquis Mazacera on the shoulder, and the spell of this artificial situation snap. And yet he walked before me leisurely to the carriage and entered it. We drove to the Dresden and there the marquis descended and mounted the steps to his apartments.

I turned then to the human enigma in the seat beside me.

"Mr. Mason," I said, "this morning's work will surely cause the arrest of the Marquis Mazacera."

"I fear not," replied Randolph Mason. "This District-Attorney is no ordinary person."

On the following morning the storm of public condemnation doubled around the head of the District-Attorney of New York. The story of the mysterious visit of the Marquis Mazacera and his counsel to the Criminal Court Building was elaborately published, rounded with the statement that the Italian had there confessed to the homicide and invited the District-Attorney to arrest him in place of the innocent valet of Tolman Perkins. Why was the singer Robini above the law?

The organ of the party opposed in politics to the District-Attorney denounced him with savage editorial comment. If he was afraid to prosecute the Italian Robini, it would find an attorney who was

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not afraid. It then named a certain lawyer in politics, one Theodore Fagan, a person of large municipal influence and considerable prominence, a man of no profound legal learning and of little legitimate practice, nevertheless a person of ambitions and unflinching assurance. This organ demanded that Fagan should be sworn in as an assistant district-attorney and the prosecution of the Marquis Mazacra put entirely into his hands. It went daily further with this cry, and finally, holding a citizens' meeting, drew up and presented to the District-Attorney a memorial setting out his strange dereliction of duty, and demanding that Theodore Fagan be at once vested with the authority of an assistant and permitted to bring this Marquis Mazacra to deserved and speedy justice.

Contrary to every expectation, the District-Attorney of New York instantly assented to this proposition, without a word of explanation or comment. Fagan, fortified by his tremendous assurance, began at once to carry his mob directions into effect. Immediately after he was clothed with the authority of an assistant district-attorney, he caused the Italian marquis to be arrested. He made little effort to press a preliminary examination of the prisoner, as it was evident, even to him, that such a proceeding would be futile; the Marquis Mazacra declined to open his mouth except for some irrelevant courtesy. Fagan was a politician, and foresaw the need of getting quickly to a trial; he was serving the most unstable

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of masters, a hydra-authority, safe only while its tongues kept chorus.

Within a week of the date of the arrest, the Marquis Mazacera, alias Riear lo Robini, was indicted for the murder of Tolman Perkins. His case was advanced on the docket, a jury was impaneled, and the man placed on trial for his life. The valet, released and sitting in the court room, was the chief witness for the people. Randolph Mason appeared as counsel for the prisoner, but his conduct of the defense was so acquiescent that Fagan's organ facetiously named him the co-counsel for the people. He offered no objection to the special grand jury, no objection to the advancing of the case; he put no question in the *voir dire* examination to the talesmen, and, in fact, assisted the new prosecutor to get the trial as quickly as possible under way.

This strange method of defense was not unmarked or without public comment. The jurymen were searchingly investigated by Mr. Fagan's journal to determine if they were reached by any subterranean influences; but they were shown to be men of ordinary affairs, wholly without any foreign relations. The Governor was interviewed, the personnel of the Supreme Court scrutinized. To be sure, no hope lay there for this mysterious prisoner. So far afield did this labor of suspicion carry that the very officials of the prison were turned around in the public light of inquiry.

In the meantime no more impressive or engagingly

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indifferent persons ever sat down in a criminal court than the prisoner and his counsel. The marquis might have been some bored, conspicuously important person, condescendingly present. Groomed exquisitely, silent, courteous and attractive, the good blood in him met this peril to his life with dilettante unconcern. Randolph Mason beside him, silent too, ironical when aroused, was impressive in a larger and more sedative way. He might have been some famous scientist, waiting patiently for permission to depart, his mind already returned to its labors, his body alone idle and present in this place of little problems. During all the preliminaries of the trial his features were dull, introspective, without apparent concern or any careful notice of the progress of affairs.

No criminal prosecutor of a government ever had so easy a time of it as Theodore Fagan. Leisurely and unfairly as he pleased, he introduced the testimony of the valet. By him he proved the death of Tolman Perkins and all the details attendant on his killing, explained the testimony as it was given, commented upon it, repeated it, colored it, and argued it to the jury after the manner of his legal kind. He then called the police officers who had gone to the house on the morning of the killing, and again laid before the jury all the details of the homicide, dwelling with lurid comment on the strange, tragic incidents, striving thereby to fire the jury with a spirit of crying vengeance. The surgeons of the hospital

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were made to relate with minute and technical detail all the aspects of the injury coming under their notice, the result of their examination and treatment of the injured man, his death and the details of the post-mortem.

Finally, having thus at great length established the death of Tolman Perkins and its circumstances, Mr. Fagan arose. He stepped dramatically before his table, threw back his shoulders, and caught up the third button of his coat.

"If your honor please," he said, "I have reason to believe that the prisoner is relying for his defense upon our inability to identify him as the Marquis Mazaccera. I have therefore called a number of Italian witnesses. Will your honor direct the interpreter to be sworn?"

Then he whirled about triumphantly into his chair like one who has gloriously spiked the only cannon of his enemy.

The reporters at the table paused a moment with their pencils suspended above their note-books. This, then, was the solution of Mason's indifference. If the prisoner could not be identified as the Marquis Mazaccra, he could not, of course, be convicted. This was a vital point—the savage battle for the prisoner's life would begin now. They waited, fingers tightening on pencils, for the report of the opening gun. Every glance in the court room winged to Randolph Mason. It was an instant of peculiar dramatic stress. Then it puffed out.

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"Your honor," said Mason, "we admit the identity of the Marquis Mazaccra."

The joy of Mr. Fagan could not be concealed; it sat glowing on his face as he got once more to his feet. The only gap in his evidence had been bridged for him. The road to the conviction of his prisoner lay now unbroken before him in the sun.

"If your honor please," he said, "I have proved the incidents of the murder, the death of the victim, and the circumstances attendant on the dying declaration of the deceased. I wish now to introduce that declaration, to connect the prisoner with this killing. The identity of this prisoner with the Marquis Mazaccra having been now admitted, I take it that the people have made their case."

Then, posing on one foot, and raising his voice until it carried to the bailiffs at the door, he read the original statement of Tolman Perkins:

"It was that Italian, the Marquis Mazaccra, who did it. When I get well, I will kill him."

If any one had been at that moment observing closely the face of the presiding judge, he would have noticed a curious transition there, as of lights swiftly changed behind the immobile features. The judge was an able and conservative trier of causes, and made it a point never to read any newspaper notices of a crime, nor to be advised in any manner of public opinion, nor of any comment antedating the trial of the prisoner. He thus got his knowledge of the case

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solely from the evidence produced before him on the trial.

"May I inquire, Mr. Fagan," he said, "if you have any evidence further than this declaration to offer for the people?"

"No, your honor," replied the lawyer. "This seems quite enough to establish the guilt of the prisoner. The people rest with it."

The judge looked down at Randolph Mason.

"Has the counsel for the prisoner anything to say on the admissibility of this evidence?"

"No," replied Mason, rising; "I object merely to its introduction, and move the court to direct a verdict of not guilty. We have no evidence to offer."

Mr. Theodore Fagan arose then, buttoned his frock coat, thrust his right hand into its breast, and delivered an oration on the homicide. From the tail of a cart, before a street mob, Mr. Fagan was an effective speaker. In the cruces of turbulent conventions, he was almost a genius, of a certain order. He fitted the prisoner to the stage-setting of a fiend, he conjured forth the horrors of a man bound in a chair, set before a mirror to watch himself bleed to death. He called upon justice, beating his breast like the priests of Baal, to send down fire from heaven and consume this Italian smiling ironically in the dock. It was a lurid thing, not without effect on the jury and those who sat listening in the court-room. Had the law been absent, such a speech would have swept the marquis to the lamp-post. But to the dispas-

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sionate judge, the words were as sounding brass. When Mr. Fagan returned finally, steaming, to his chair, the judge arose and addressed the jury.

"Gentlemen," he said, "there is no more difficult duty than that of passing upon the guilt or innocence of one charged with a crime; therefore the law, out of an interminable experience, has laid down certain definite rules by which courts are to be governed in the exercise of that duty. These rules are said to be the very refinement of reason. They at least insure a certain order and a certain uniformity of result not otherwise attainable. They are rigid, accurately determined and binding alike on all courts of justice. It is certain that now and then the observance of these rules permits a guilty man to escape punishment. But, in the meantime, they are the safeguards of persons unjustly accused and preserve the innocent from passion, prejudice or a public preconception of guilt.

"In the case before you, evidence has established the violent death of a citizen, and the circumstances attendant on it; in fact, the perpetration of the highest crime under that of treason. If, in addition thereto, proper evidence should be presented tending to connect the prisoner with that killing, you would have the right, under the law, to say whether he is guilty or not guilty of the crime. The assistant district-attorney offered the statement of the deceased, naming the Marquis Mazaccra. The identity of that person with the accused is admitted. This is

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the only testimony offered on that point. If it is admissible and proper, the guilt or innocence of the accused will remain with you to be determined. If not, it becomes my duty to take the case out of your hands and direct an acquittal.

“As a general rule of law, one speaking against an accused must first be sworn, and an opportunity given for his cross-examination, before his statement can be heard as evidence; but there is an exception made in that certain class of evidence commonly named dying declarations, that is, statements germane to the issue made by one about to die. Here the law assumes that a man in the immediate presence of death will not probably lie, and his statement is admissible as evidence, with the usual presumption of truth in its favor. *But, it must affirmatively and conclusively appear that the deceased, at the time of making such a declaration, believed himself about to die, had, in fact, abandoned all hope of life. If he entertained any hope of recovery, or any doubt of death, his statement is not admissible as evidence.* It is not material that he did in fact die, even with the words of the declaration on his lips, if he did not believe death impending.

“This is the rule. Let us now apply it to the declaration of Tolman Perkins: ‘It was that Italian, the Marquis Mazaecra, who did it. When I get well I will kill him.’ Did the decedent believe that he was about to die when he made this statement? Had he abandoned hope of life? Clearly not. His state-

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ment itself established the contrary beyond a doubt. 'When I get well I will kill him.' Here is more than a hope of life. Here is a threat of retribution, based on a conviction of recovery. This statement of the decedent is, therefore, not an admissible dying declaration. It cannot be introduced as evidence. It is a worthless recital, before the law.

"Now, gentlemen of the jury, there is no evidence whatever, other than this inadmissible statement, tending to connect the accused with this homicide. I shall, therefore, sustain the motion made by counsel for the accused. You are directed to find a verdict of 'not guilty.' And the Marquis Mazacra, alias Ricardo Robini, is discharged."

The following morning the District-Attorney of New York had his triumph. His statement to the electorate of the city marked the greatness of the man; it was dignified, concise and without exultation. Being aware that the statement of Tolman Perkins was not admissible as evidence, and that the Italian would be acquitted if seized and tried, his plan was to set the police machinery at work on the case in the hope of finding some evidence connecting the accused with the crime. Finally, when the great wave of public opinion descended on him, he determined to yield to its wishes and thereby give the people an object lesson, an example of the danger of public clamor when directed against the administration of the law. He looked upon the result as a thing not to be deplored, rather as a public good, tending to

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strengthen the confidence of the people in the integrity of its public servants.

It was now clear to me why Randolph Mason had tried to goad the District-Attorney into a trial. There was danger in delay. something might be discovered; but a trial upon the evidence in the possession of the people must result in acquittal, and, if the man was once acquitted, he could not again be tried, no matter what after-evidence was discovered.

The Marquis Mazacera saw it all, too; but he made no fulsome offer of thanks to Randolph Mason in the court-room. He maintained there his bearing of an aristocrat, the air of a man lightly indifferent to sun or shadow. Later, on his way to an Italian steamer, he came in for a moment.

"Mr. Mason," he said, "I wish to thank you for my life."

"Sir," said Mason, "I had no interest in your life. The adjustment of your problem was the only thing of interest to me."

I have not been lately in Italy, but I am told that if one will double the copper coins dropped into the dish of the collector at Sorrento, he will be rowed along the Bay to the villa of the Marquis Mazacera, and, if he increase this wage to a lira, he will be shown the Virgin of the Mountain.

For the legal principle involved in this story see Greenleaf, or any text-book on evidence.

CHAPTER XI

AN ADVENTURE OF ST. VALENTINE'S NIGHT

ON the night of the fourteenth of February, I came to New York from Philadelphia. The fast train from the South was late and did not arrive until nine o'clock. It was very cold, the windows of the cars were incrustated with ice, there were miniature snow drifts across the vestibules, and the steam pipes smoked. I was exceedingly hungry. The dining-car had been cut off at Philadelphia and my hope of dinner was beyond me, in New York. When the boat which carried us across from Jersey City to the Twenty-third Street ferry touched the dock, I jumped off and ran into the checking room to give directions about the transfer of my luggage. I was delayed by the oriental leisure of the man in charge. When I got out, finally, into the street not a cab was to be seen. The wind was driving past every moment with increasing fury, the frozen snow flakes cut one's face. I started to cross the street to a waiting street-car. I had hardly stepped out from the ferry house when a hansom pulled up and I hailed it.

As I put my foot on the cab step, I heard behind me a little smothered cry of disappointment. I took

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my foot down from the step and turned around. A little way behind me, under the eaves of the building, stood a woman wearing a long fur coat to her feet, and carrying in her hand a traveling bag. Her face above the fur collar of her coat was wrapped in a black veil. I went at once to her.

"Madam," I said, "did you call this cab?"

"No," she replied, in a voice low, musical, but greatly troubled; "I did not call it, but I hoped to get it."

Then she added with a flutter in her voice,

"I am alone. I cannot possibly walk in this storm, and I must get quickly to the Dresden."

"Madam," I said, "this hansom is at your service; pray take it."

"But you?" she answered.

"I shall get up-town some way," I said; "the elevated station is only a few blocks away."

I helped her into the hansom, then another tremendous gust came roaring down by the ferry house. I banged the doors and ducked my head to escape the fierce onslaught of the wind. When the gust passed I looked up to find the cab standing beside me. A little hand threw open the hansom door, the soft, musical voice said,

"I cannot leave you here in this terrible storm, get in."

I got in, howled to the driver to get over town to the Dresden and sat down by the unknown. As the hansom wheeled into the street, the woman leaned

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over me and looked back. I looked over her shoulder. Another boat had arrived and the passengers were coming out. I saw in the heavy snow, a man running toward us, waving a hand; then we were out of sight bowling over the Belgian blocks.

The woman tucked the fur coat around her feet, pulled the long sleeves over her hands and nestled up against her corner of the hansom.

"Pardon me," she said, "I thought I had stupidly left my bag on the curb, but here it is at my feet."

I smiled at the pretty lie.

"Madam," I said, "I am sure it is at your feet. There must be some trace of feeling even in alligator leather."

I think she was undecided whether to chill me with irony or laugh. The laugh prevailed, then came the irony.

"How stupid of me," she said; "perhaps you do not wish to go to the Dresden. We are approaching the elevated station, I notice."

Her tone was in that admirable middle pitch which reveals nothing.

I wished to answer that the Dresden seemed just then to be a fairy Mecca, and that if I were put out, I should probably trot after the cab like a faithful puppy; but were there not faint breaths of frost in the little voice? I might be put out after all, and I wished greatly to remain. At any rate, I must take no risks until the elevated station was behind us, so I laid before her the details of my discomfort.

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"I shall be glad of the Dresden," I said. "I am cold, I am starving. My fingers are quite numb, and I could gladly eat the straps on the hansom."

She laughed.

"Have you gone so long, then, without dinner?"

"Long?" I echoed. "Why, madam, it has been eight mortal hours! Men have become cannibals in less time than that."

We were well past the elevated station now.

She shrugged her dainty shoulders.

"Observe," she said, "how I shudder."

We were getting on famously.

"And with reason," I answered; "was not the taste of the bear for the bee-tree known even to the ancients?"

"One of the Gospels, I think," she said, "tells us how bad such food is for the digestion."

Then, fearing that she had been led too far into pleasantries, she turned it, after the manner of a woman.

"Let us hope," she added, "that you will find something more substantial than the Baptist's meager fare at the Dresden. I would suggest a loin of beef, washed down with Burgundy, a dish of salad, a pot of coffee."

Then her voice slipped up into that dangerous, indeterminate note.

"We are crossing Broadway," she said; "perhaps you would get down here?"

"What!" I cried, "and leave the loin of beef, the

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Burgundy, the dish of salad? The suggestion is inhuman."

"Very well," she said, and there was no mistaking the indifference in the tone. In fact, it was rather too indifferent. I fancied it masking some aroused emotion.

We bowled along and turned into the Dresden. The porter helped us down from the hansom and into the hotel. Here I saw my companion clearly for the first time—and yet that statement is wholly inaccurate. I saw clearly only a splendid sealskin coat with a sable collar, a fashionable hat, two well-gloved hands and a thick, impenetrable veil. This chance acquaintanceship was about to end. I could not follow her, spying, to the clerk's desk, and yet I must act within the next thirty seconds before the house porter reached her bag if I wished ever to go a step further. He was passing the elevator now. I set my feet into the Rubicon.

"Madam," I said, "this is St. Valentine's night, sacred to the unknown. Its privileges have been respected since Claudius. I beg you to share my loin of beef."

The woman started perceptibly, glanced up and down the corridor and then hurried to the elevator. For a moment I was at a loss to account for this instant flight. Then I observed that a second hansom had arrived and a man was coming in with the porter through the door. The obsequious flunkey was in the midst of a reply.

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"Just arrived, sir, in the first hansom, sir."

I glanced at the elevator, the door clicked; the escape was by a hair's thickness. I turned to follow the man. He was advancing to the clerk's desk, his back toward me. I observed that he was rather tall and wore a dark ulster with a strap across the back. The incident required no reflection. Here was the hurrying stranger of the ferry-shed, certainly one of several kinds of dragons to be found at the heels of escaping beauties. I should presently see to which type of dangerous beast he belonged. I strolled over to the big leather settle opposite the clerk's desk, planted myself in it and lighted a cigarette. The new-comer wrote his name in the register, took off his coat, and turned. I saw then that he was not an irate father, obviously. He was either the brother, or alas, the husband of this charming unknown. He was a tall young man, evidently from the South or West. His eyes were gray, he wore gold-rimmed spectacles, his nose was aquiline, his mouth and chin firm and well cut. He was evidently a person of determination and courage.

"Aha!" I said behind my cigarette; "there is here certainly snuffings of battle, but not afar off. However, before the shouting of the captains begin to arise, it might simplify matters if I knew whether the Nemesis is brother or husband."

I should arrive at the solution from his bearing; Monsieur Le Coque or Dupin would read it, instantly, like a weather report. I looked up at the man's face.

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He was smiling! Then the beast was not an avenging husband. Such a one does not smile when he pursues the faithless. I had all the reeking dramas as authorities for that. He might chuckle in his throat, or draw his lips into a sinister, forboding curl; but he did not fall into facial sunshine. This man was grinning like a Cheshire cat; and, by the Lord Harry, he was off to the bar below for grog! He must be the brother then—and yet, no. He was too big-limbed for a brother, the types of the two were distant as the poles—nor would a brother be so bedecked with grins. He would have nothing to conceal, he would buzz like a hornet around the truant, stow her safely under his wing and then take his Scotch with his eye on her. This dragon was evidently less the brother than the husband; but was he not, indeed, the husband? Did Pinero draw always faithfully from life? A greater than he had written of those who smile and smile.

Look at it now; the first domestic wrenchings were old enough to be calloused to the fingers, the home was shattered beyond all hope of patching, the woman had gone out over bridges that straightway fell in behind her; the man followed like an Indian—not to win her back to his hearth but for some object more sinister. He had found her at the Twenty-third Street ferry and lost her, but here she was, run fast into a pocket, and so he smiled and took a glass of grog. There was time a-plenty for the blow. I thought the husband theory had rather the better of the argument.

Meanwhile, I was ravenously hungry. I threw

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away the cigarette, went into the dining-room and ordered a somewhat elaborate dinner. Events were marching over me, the good St. Valentine slept. I must dine alone, while the unhappy truant trembled and went hungry, and, while, perhaps, tragedy knotted the tie strings of her mask.

I was leaning over a cup of bouillon when a low, merry voice said,

"You are not very thoughtful of a guest."

I sprang up to confront a dainty figure in a gray traveling dress, two merry dark eyes, a trace of smiling scarlet above a defiant chin, and a mass of brown hair wound in loose coils.

"I beg you, madam," I said, "to lay this discourtesy to my meager knowledge of fairies. I thought you vanished."

"What!" she quoted, "and lose the loin of beef, the Burgundy, the salad?"

My tone was reproduced adorably. Then she sat down opposite me at the table, as bewitching a madcap as ever danced out of the kingdom of Queen Mab.

So, then, I had been mistaken. She had not seen the Nemesis after all. Or better, perhaps, the person who had arrived was not he, or there was no Nemesis except in my disordered fancy. I looked over the room for the man. If he were spying, he would be in some corner of the café with his eye on us, and so he was. I found him presently, a little behind a palm in a nook by the door, and such eyes! They burned like

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dull green lamps. The smile was faded out to its last vestige, the face was sallow, its tense lines could not be read incorrectly. Some huge, skulking emotion sat watching with this man. The woman had not seen him—that was the whole solution in a word.

I could not eat much for all my boastings of hunger—no one could under those ugly eyes. They seemed now to glitter when the leaves of the palm threw little shadows on spectacle glass. That glass added a certain terror, the eyes became like one moving behind a screen, and there was something sinister in the smiles and laughter of this charming woman under an espionage she did not dream of. I held my place as carelessly as I could, under this menace like a cocked pistol. I fished a little for a clue.

“Madam,” I said, tipping a little of my wine into the plate, “the king, your father, doubtless sends an invisible escort with you. I pour out a libation to it.”

She put aside the bait.

“I am an orphan,” she said, “not even a brother on the throne.”

That lopped off one limb of the problem, if it were the truth.

“But, madam,” I began.

She held up her unglowed hand, as bare of rings as my own good nose. That dismissed the husband—if the ring were not in her pocket.

“I beg your pardon,” I continued. “How could one hope that you had escaped bondage for so long?”

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The men of your land must resemble that foolish people railed at by the Prophet."

She lifted her little chin with a quaint challenge.

"Am I so old, then?" she said.

"Yes, Mademoiselle Inconnue," I answered, "quite eighty years old, I think. The letters to you have been published thirty years."

"Excellent, Monsieur Mérimée," she said. "We are now supplied with names, we shall get on better."

I could have taken this promise with a greater joy had it not been for the sentinel behind the palm. I have rarely seen a more bewitching woman than this Mademoiselle Inconnue. She was evidently of Latin stock. French, I thought. The outlines of her face were Continental, the vivacity of it Parisian. Her words had now and then a noticeable accent. She was perhaps born in the Faubourg St. Germain, and expatriated in her short skirts. I thought of her as descended from those women of the Empire who, Halevy says, began their memoirs with so subtle and piquant a listing of their charms that no man, after the first page, ever laid down the volume until he had the last word.

If it had been any other than St. Valentine's night, I should have set a doubt against this sudden geniality of my companion. She had not been so sunny in the hansom, but here she laughed like a brook. We might have been runaway lovers with no horses galloping behind us. I would have given kingdoms for a red-hot spit in those eyes under the palm; but there

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sat the man watching like the Devil's imp. Who was he? I laid another ambush for her with a piece of fiction.

"Mademoiselle," I said, "in the corner yonder by that palm Madame Bernhardt recited for the disabled sailors; the spot is marked with a mosaie star."

She followed my eye boldly to the spot, held a level glance on the very glasses of the dragon without the flicker of an eyelid.

"How lugubrious!" she said. "There is such a star in the railroad station in Washington marking the place where a President was shot."

Then she shrugged her shoulders and looked me squarely in the face.

"Why should they mark with the sign of tragedy the spot where Madame Bernhardt recited—that place there by the palm?"

I tried to evade the directness of the query.

"Lay it," I said, "to the unimaginative nature of our people. A Latin would have marked one place with a mosaic of laurel, and the other with a black cross. Let us suggest it to the Players."

She looked at the palm again with a slow, heavy-lidded glance and then back to me.

"No," she said, "now that I think it over, perhaps the mark of tragedy is fittest there." And then, "Does not Bernhardt indeed represent the embodiment of tragedy?"

I had new lights on the problem. The woman was perfectly aware that a sentinel watched. She knew

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when he entered with the porter. She knew that he sat behind that palm when she came in to dinner, and yet she came, and played with me a comedy of sweethearts crowded with suggestive incident, and overplayed it. No woman would so goad a man who had any rights over her. Her subtle knowledge of the savage always somewhere in him would warn her against bearing on the sore spot too hard. If nothing else, she would fear the danger of a scene in a public dining-room. But she defied the man. Obviously then, he was one who watched without any authority to control her. To what class did such persons belong? Plainly, to the sleuths of the law. The man in the spectacles was a paid spy. He could report what he saw, but he could not interrupt it. The explanation had arrived.

I had barely settled the matter to my satisfaction, when the man arose and came through the dining-room past our table to the door. He doubtless saw that the woman had discovered him and so deemed it wise to leave the café like an ordinary guest. I observed again that his face was strong, determined and very pale. Such a type of person did not become a detective in New York; but all manner of men came from the great West, and why not a spy with an open, honorable face? The next moment my last theory went to pieces.

The young woman looked up from her coffee, smiled and spoke to him in as pleasant a voice as I have ever heard.

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"Good-evening, Henry," she said.

The man bowed courteously and passed on through the door, a show of color mounting slowly to his cheeks.

I withdrew then from the field of Le Coque and Dupin. The mystery was beyond me. One did not speak thus cordially to a hired trailer, and where in Christendom was there a spy who blushed? The man went out into the lobby of the hotel, got a cigar somewhere and sat down in a leather chair by the wall where he could have a view of the dining-room. Still he watched, and my Lady Unknown knew that he watched. She returned to me with a play of still more bewitching coquetry. It was exquisitely done for an audience that could not hear the lines. There was now an air of deep, trusting confidence, now a gush of banter, now a moment of affection, restraining with difficulty a caress. I have not seen the thing done better behind any footlights in the world.

When the dinner was ended, I went with her to the elevator, wondering if she would play it out with her fingers to kiss at the parting. But she only smiled alluringly and I stepped into the steel cage with her. Even the Hebrew Scriptures scorned the weakling who turned back.

"The parlors are on the next floor," she said.

Then the door clicked and the elevator began to rise. Instantly she changed as under some hideous sorcery. Her hands trembled, her face grew as white

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as a grave-cloth. When she spoke her voice clicked like a steel rail under an express.

"Get out here," she said, when the car touched at the next landing, "and manage to leave the hotel unobserved. You have done me a great favor. I thank you."

I got out. The car vanished. I started to go down the steps, when I saw over the rail the mysterious stranger coming up. I turned back and stepped quickly behind the elevator shaft. The man came slowly up the stairway and went into the public drawing-room. I got into the next car that came down. As it descended, I looked back through the wire net over the roof of the car. The man was coming out of the drawing-room door into the hall. His face was purple.

It was late when I got down-town the next morning. Pietro let me in and I went at once to my table in the front office. I was scarcely seated when I became aware of some one talking in the adjoining room. There was a familiar tone in the low voice that took my attention from the pile of letters before me. The door was not quite closed. I arose softly and looked through the crack. Randolph Mason sat in his chair, his fingers plucking impatiently at the heavy mahogany arms, his head held a little to one side, his eyes wandering aimlessly over the room. Opposite him, with her two elbows on the table, her face pressed together in her hands, and a long seal

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coat falling to the floor over the back of her chair, sat the woman with whom I had dined the night before at the Dresden. I could not see her face, but her voice was tense, vibrant, low, packed with emotion. If I had not been consumed with a special interest, I still had not been able to put away this espionage. The soft, quivering, overcharged tones held me like the droning of some incantation. I caught the words pouring hot as from a crucible.

“After that he was always at the door when I came out, heaping on me things that I did not want—flowers, bon-bons, the like. I was hideously poor. I mended with my own fingers the stockings in which I danced every Wednesday night at the *Théâtre Français* in the great ballet of the Fata Morgana. I needed warm clothes, good food, a fire. They said I had limbs like a fairy. I had, they were starved thin. An exquisite pallor, I had that too, but it came from sour bread, chocolate made with water and sweetened with sugar picked off with my nails from the bon-bons. I did not love the man, nor any man. I was a child. In the place of a mother, I had the warnings of an instinct. I feared the touch of a man’s fingers as the beast of the field does; but the old concierge who had kept life in me with hot soup every night after the ballet, took the thing in hand. She discovered, I know not how, that the young man’s father was a rich American. So she bundled me off to Passe and handed me over to him, but under a ceremony of marriage set out fully on the records of

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Passe. She was the only friend I ever had, this old, crooked, evil-featured Madame Duroque. She could more easily have sold me to him at the door of her lodge for a hundred louis. After this, I was, at least, not hungry. My husband was little more than a boy. We lived over the Seine by the Luxembourg. I did not dance any more at the *Théâtre Français*, but I went every Monday morning to see Madame Duroque to tell her everything and to divide with her my handful of francs. My husband studied art under the usual masters, but it was every morning thrown away. He was indolent, utterly worthless, wholly given over to a life of pleasure.

“One noon in May, his father arrived, handed me twenty-five napoleons and told me to go down into the street. I went with the money in my hand to Madame Duroque. She put her shawl over her head and hurried out. I did not see her again for five days. Then she came with the great American and took me to the Hotel Continental and to my husband. Madame Duroque kissed me at the door, put my certificate of marriage and the wedding ring in a silk bag and fastened it around my neck with a little gold chain. Then she took me to one side, and bade me remain with my husband and demand a hundred thousand francs before I would set foot out of Paris, after which she went back to her lodge.

“The father prepared then to return with us to America. I refused to go, and my husband, who was now aroused, refused also to go unless I accompanied

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him. I got finally the one hundred thousand francs and we arrived in New York. My father-in-law, who owned railroads in a Western state, took us there and installed my husband as the clerk of a court in a little town built along the side of a mountain above the fork of a river where three railroads joined. He was trying to make a man out of my husband, he said. At his urging, I invested the money which I had received in the bonds of a railroad which he was building through the county.

“We lived there five years in the smoke, the mud, the unutterable dreariness of this frontier village. One day my husband fell and broke his wrist. He went to a hospital in a neighboring town to have the bone set, and died under the influence of ether on the operating table. I found in his pocket this letter, which he had written to me before the operation.”

She took one of her hands down from her face, unhooked the bosom of her dress, took out a letter and read it. It was a meager note, a sort of memorandum to her, in the event of any serious consequence attending the operation. It told her briefly that the money which she had invested was lost, that his father had wrecked the railroad, reorganized it and absorbed its assets; but that there were twenty-five thousand dollars in a tin box in the bottom of his trunk in her room. She should say nothing to any one and keep that money for her own. It was all the provision he could make for her.

She laid the paper before Randolph Mason, then

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she took a newspaper clipping out of her purse and held it in her hand.

"I found the money packed in big bills in the tin box. In a few days I knew where my husband had got this money."

Then she read the clipping. It was an ordinary newspaper notice, reciting the death of the clerk of the court, and the fact that a sum of twenty-five thousand dollars which had been paid into his hands could not be discovered anywhere on deposit in any of the banks. This money he had received under the following conditions: The main line of the railroad belonging to the clerk's father had condemned and taken the bottom lands of the town for a freight yard, and, the land owners refusing to take the money allowed in the condemnation proceedings and the circuit court not being in session, the railroad had paid it into the hands of the clerk of this court.

The woman crumpled up the piece of paper and threw it on the floor, set her elbow on the table, pressed her open hand once more against her face and hurried on with her story.

"My husband's office accounts were gone over and this money could not be found. He was presumed to have spent it. I said nothing. It was merely my one hundred thousand francs with its interest returned to me, and from the very one who, in his own fashion, had taken it. I was glad, glad of this settlement by the good God, glad to the very bottom of my heart. I made ready to return to Paris,

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to Madame Duroque, to life. Then I learned another thing."

She moved uneasily in her chair, her voice sank lower, her fingers tapped nervously on her face.

"There was one honorable man in this hideous village. From the very day on which we arrived he did incredible things to make life possible for us. He got a house, servants, everything that long patience could secure for our comfort. I came to regard him as an elder brother. My husband would have been a common drunkard but for him, and I should have been stark mad from dreariness. Well, he came to me and said that he was the surety on my husband's bond as clerk of the court, that if the money could not be found the railroad would force him to pay it. He was not rich, it would take all he had. He did not believe that my husband had used the money; it ought to be on deposit in some bank, or locked up in a box in some trust vault. I set my teeth down on my tongue and made a pretense of helping in the search. Months passed. I remained in the village, unable to decide between this man's ruin and Madame Duroque."

For the first time in the torrent of words, the woman hesitated, her voice became almost inaudible.

"I learned also in this time a thing that I had not suspected—that the man loved me. Oh, I don't mean love as I have seen it all my life long, the passion of the hunter, a hunger to be fed. I mean something like a religion that carries your burdens for you and is

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glad of it, that thinks of itself last. A thing like the feeling of that old concierge. Mon Dieu! I was mad then! On the heels of it I learned that Madame Du-rouque was ill in a house of public charity in Paris. Then I took the money and ran away to New York. This man discovered that I had gone and followed me. I arrived last night. He came, too, just behind me to the Dresden. Oh, I was mad, wholly, utterly, hideously mad! Now that I had decided against him, I wanted to hurt him, I wanted to do him all the injury I could. I wanted him to believe me low, vile, common, vulgar. Fate helped me. I came to the hotel in a hansom with a man I did not know. I dined with him!"

Her voice went up strong again, almost defiant.

"There was no wrong in it, no actual wrong in it. I made the man get out at the first landing and return in the next car to the hotel office; but, don't you see, I made *him* think I was bad."

She brought her two hands down clenched on the table.

"I wanted him to see with his own eyes that I was bad!"

The words clanged like a bell.

I became aware then of some one breathing heavily behind me. I turned, expecting to see Pietro. Instead, at my back, looking over my shoulder, was the man who had sat watching at the Dresden. His face looked as though it were coated with chalk, his eyes stared over my shoulder into the next room. I saw,

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too, that the door of the house stood half open. He had come in unnoticed by Pietro.

The woman got her voice painfully in hand again.

"Here," she said, "here is the money." And she took up her traveling bag from the floor and threw it down on the table among the books.

"Send it back to him. You are a lawyer, you can do that somehow. I have kept only a thousand dollars for Madame Duroque. Let him arrest me for stealing that, if he likes. I should be glad of a cell."

The woman's face was set now in a distressing tension.

"Madame," said Randolph Mason, "you might have spared yourself this nonsense. You are guilty of no crime in taking this money; neither was your husband guilty of any crime in keeping it, nor yet is the bondsman of your husband liable for this money. This money was paid to your husband as clerk of the circuit court of his county, during the vacation of that court. It was not, then, money paid into court, to the clerk, as contemplated by the statute of the state in which he lived. It, therefore, did not come into his possession by virtue of his office, and his bondsmen are not liable for its misappropriation. Such bonds require only that the clerk shall account for and pay over, as required by law, all money which may come to his hands by virtue of his said office. It is no crime for you to keep the money since it was neither stolen nor embezzled, but merely entrusted to your husband under an incorrect idea of the law. The

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loss, madam, will fall on the railroad which paid this money into court—that is, your father-in-law, the one who should properly lose it.”

I looked to see the woman grow suddenly radiant; but, instead, she buried her face in her hands and began to cry. The tears trickled through her fingers. She rocked, sobbing, in her chair. I caught the handle to the folding-doors between the two rooms and flung them open. The woman sprang up, stammering incoherently. The man took her in his arms.

Randolph Mason spoke then in his cold, even voice, but there was almost a smile on his lips.

“Parks,” he said, “go out and engage a state-room on the *Kaiser Wilhelm* for Cherbourg.”

For the legal principle involved in this story see the case of *State to Use of Blake v. Enslow et al.* 41 W. Va.; 744.

CHAPTER XII

THE DANSEUSE

By far the most interesting client that ever called upon Randolph Mason was St. George Fairfield Porter. I do not put this superiority upon any one predominating feature; in point of dignified manner, in point of physical impressiveness, in point of courtly presentation of his case, he was easily first. He came attended by a retinue, like a maharaja. He gave no personal attention to Randolph Mason beyond a certain stolid observation cast in entering equally upon the rows of leather book-backs, upon Pietro, upon the glittering ink-stand on the table. Like a maharaja, he conducted his relations with others through skillful attendants waiting constantly on his person. One spoke for him—a sort of regent. One in white, a servant of an upper order, saw constantly that no profaning hand touched him, and another, of a lower caste, waited at the door with various articles of portable luggage.

He held, above all persons of my knowledge, decided contempt for custom. I remember that he lunched during the interview, that he expressed without restraint his annoyance at a beam of light which

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struck him through an open shutter, and once he sang monotonously the fore words of a ditty with endless repetition, like one comfortably at leisure dwelling on a thought that pleased him. Something of his dress ought, doubtless, to be described. He wore a sort of yellow sandal, disclosing white hose ending four inches above on his fat leg, a plaited frock, a coat hand-embroidered in white silk, a hat buttoned together, having a baggy crown, a drooping rim—all of French piqué. In his right hand he carried a dog-whip, although there was nowhere in his retinue a dog, and, tucked under his left elbow, a man in minute effigy named—as I presently observed—most curiously, “How de-do,” and more curiously, I thought, referred to by his master as a “baby.”

Now I admit here upon this record the superiority of St. George Fairfield Porter in all qualities deemed excellent among men; but in the matter of sight I am as good as any of God's creatures, and my gorge rises at the word baby applied to such a beast as this How-de-do. There was never on this earth a more debauched, evil-featured thug of middle age. The worst strains in three alien races were hideously mixed in him. The negro kink in his hair spoke of “long pig” eaten half-raw by camp fires on the Congo; his puffy, cruel, Turkish face, of ghastly-writhing sacks cast out of palace windows into the Bosphorus; his slim Mexican body, deformed at the extremities, of good priests buried alive to the chin in the slime of the Verde, their faces smeared with honey that the flies

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might devour them. If at the last door-post, by reason of my sins, I am to meet the devil, I pray that he may not come upon me in the mortal habiliments of this How-de-do. I saw now the larger uses for the dog-whip.

St. George Fairfield Porter was perhaps two years old. He came accompanied by his mother, a nurse and a lesser servant. This mother was a woman whose face impressed me; it bore record of disaster without attendant hardening of lines, rather the face seemed cleansed by misfortunes, as a plate passed through acid. She spoke directly, without coloring her words, without restraint and without apology, as one speaks to the surgeon before he strips for the knife. She did not desire sympathy or verbal consolation. She wished merely that Randolph Mason should have the object of her visit laid clearly before him. She had consulted with an eminent attorney in New York, who had sent her to him, as the practicing physician sends the difficult case to the expert.

She was born in New York City, and had been married three years before to Charles Porter, an iron-broker of that city. This man was a progressive, brilliant fellow. He had risen swiftly from a subordinate position, partly by reason of his excellent address, but chiefly because he was the most practical authority in America on the manufacture of pig-iron.

The era of industrial consolidation arrived about the time of this marriage, and Charles Porter was the first in the East to step into the open door. He swift-

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ly got optional control of the iron mill whose product he was accustomed to sell, and materially assisted to bring the larger business into one gigantic combine under a New York charter. This tremendous, giddy rise was the man's ruin. Shot upward almost in a night from the status of a middleman to a position of authority in one of the greatest consolidated industries of the world, he was wrenched violently loose from every moral safeguard. He adopted, as an essential element of this new station, the glittering vices with which he was now surrounded.

A certain oriental Jew, speaking from rare knowledge of human nature, feared that with riches one would forget God. Had he been a monogamist, he would equally have feared the forgetting of one's wife and God. So long as a man can with difficulty carry out but one plan of life he is apt to conduct himself as an honorable citizen. Set on an instant where many paths are open, he is equally apt to plunge recklessly into every possible experience. The American lacked the foresight of King David; within a year he had startled a continent by his gambling at Monte Carlo; he had been fined in every city of Italy for the reckless driving of motor cars; he had been publicly ejected from the Moulin Rouge for excesses passing even the elastic standard of Paris.

On his way of riot he came under the eye of a Viennese danseuse, Suzanne Kinsky, a creature with the alluring person of a dryad and the hard, practical mind of an inn-keeper. She attached herself in-

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stantly to this flowing gold-pot. In the gas-lit region of Cockaigne, the American was no equal of this experienced adventuress; she had come up from the obscurest, reeking tarns of it; she knew with hideous certainty what fate awaited poverty and the loss of youth in that tinsel'd kingdom. Like every woman of her class, arrived at a certain station, she determined to secure at any cost a permanent fortune and a footing in the world of respectability above her. The coming of this rich Western licentiate was a direct answer to Satanic invocations.

After this fatal meeting, the American traveled through the south of Europe like the Fifteenth Louis, the dividends of the second greatest trust in the world skipping through the cigarette-stained fingers of a Viennese danseuse playing desperately for an established marital relation.

The end was not far to seek. Recalled to America by his business associates, Charles Porter repaired to New Haven, established there a constructive residence, alleged the desertion of his first wife and secured a divorce by an order of publication. Immediately upon the entering of the decree he married Suzanne Kinsky and, later, returning to New York, took a country house on Long Island.

During all of this time his former wife had remained quietly with her father in New York City. Unfortunately, she could not accompany Porter on his disastrous European tour because of the birth of the little boy. For a time she was absolutely loyal to

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the dissolute husband, in the face of convincing private advices and the lurid reports to be found in the Sunday supplement of enterprising newspapers, brought glaringly to her attention. Even the man's divorce and subsequent marriage induced no word of comment or censure from the lips of this remarkable woman.

The spoke in the wheel of fortune to which Suzanne Kinsky had so desperately clung, having carried her unbelievably to the first realization of her hopes, went on swiftly upward. The physical machinery of Charles Porter, unused to dissipation and driven at a pace thus killing, went suddenly to pieces. Two months after his second marriage, his brain softened like a dish of porridge. He got up one afternoon from his desk in his office, dragging his feet, his mouth drooling, his speech a simian jabber. The danseuse acted with the most daring resolution. She isolated him instantly in his country house on Long Island, gave out that he would conduct his affairs from his residence and caused all his private papers, including the tin boxes in which his very securities were packed, to be removed to it. His deposits in banks were, likewise, immediately drawn out. His yacht, motor-cars and racing stables were sold hurriedly at auction. Suzanne Kinsky thereby got at least one-seventh of the man's estate safely into her hands while he was yet alive. The great bulk of his fortune she could not lay hands on; it was in iron and steel stocks, deposited with a trust company under an

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order permitting their withdrawal only upon the written direction of a syndicate committee of which Charles Porter was a member, and encumbered by a further agreement requiring them to be first offered to the members of the syndicate before being exhibited otherwise for sale. This estate was valued at, perhaps, seven millions of dollars.

The far-sighted, practical second wife was not greatly alarmed over the status of these seven millions. Every other scrap of the estate was in her possession—cash and negotiable assets aggregating, perhaps, a million dollars. One-half of these remaining six millions the law would give her at the husband's death. Porter had made no will and he was now forever incapable of executing one. These iron and steel stocks were personal property, and one-half would go to the wife should the husband die, as he was doing, without issue by the second marriage, the child of the first marriage having been provided for in the decree of divorce by a meager annuity in lieu of future property rights. Then, when every detail was snugly arranged, she carried Charles Porter to the medical experts. They pronounced him utterly incurable, with perhaps six months to live.

The danseuse now saw the last gate barring her wildest fancies swing inward on its hinges—a great chateau in the Bavarian mountains, a palace in Vienna, a glittering court flitting through continental capitals like a fairy pageant, all rising from that six feet of earth into which this slobbering creature, who

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had eaten of Circe's flowers, was presently to be hidden.

Then, on the instant, as under God's finger, that spoke in the wheel of Fortune, arriving at the summit, snapped. Suzanne Kinsky, looking over a New York paper at dinner one evening, read that the Supreme Court of the United States had on that day pronounced an opinion declaring invalid divorces granted upon an order of publication.

In another quarter events now began to move. The catastrophe befalling Charles Porter startled the first wife into activity. She had not cared particularly for herself, and she had all along believed that finally Porter would secure the bulk of his estate to his son. Now, stricken into senility, he could not. The scarlet woman must be met with fire. There is no courage, no endurance, no tenacity comparable to that of the just, rising, at last, to action. This deserted woman went at once to an attorney and laid the matter before him. He brought forth the decision of the Supreme Court of the United States which had struck such terror to Suzanne Kinsky, and assured her that the Courts of New York would refuse to treat Porter's divorce as valid or of any effect. She would stand under the law as Porter's wife. The estate in New York would descend at his death to her and the boy. But the million dollars which the danseuse had got into her hands was certainly gone, the woman was shrewd enough for that. But the Covenantor, the Puritan, was in the field now. No inch of ground

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should be yielded, no dollar of the child's inheritance should remain in the fingers of that woman. Was there no law fitting such a case? The eminent attorney pointed out that in theory there were remedies enough within the law, but that, when applied, they would all fail. This dancing adventuress would conceal, bury, spirit away Porter's portable estate. She would swear it had been given to her, lost, stolen, used by her husband, she knew not how. With legal arms there was no hope. If she wished, he would try what could be obtained by treaty. She wished it, and he did try. Nothing was gained. Suzanne Kinsky, being approached, took it for a sign of weakness and condescendingly, as one who would be generous, offered to pay to Mrs. Porter a million dollars provided she would not contest the decree of divorce. One million for three. In diplomatic bartering, the danseuse followed Continental masters.

The attorney presented this proof of his opinion to the client. Mrs. Porter must be content with the six million dollars. She was not content—no dollar to the scarlet woman. She demanded additional counsel. These men, learned, experienced in human affairs, were of the same opinion. The money was lost. Mrs. Porter, with an unreasonable persistence, by virtue of which every woman is a client to be dreaded, refused, even over their opinions, to consider it as lost. Then, annoyed, wishing to be rid of a problem impossible of solution by any legal formula, the attorney sent her to Randolph Mason.

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Thus I met St. George Fairfield Porter, seeking to regain a lost million of his inheritance under the conduct of his regent, a woman driven by that mystic, fearless, untiring instinct shared alike by the mothers of the forest.

When the story was ended, Mrs. Porter took from the bosom of her dress three folded papers and laid them on the table before Randolph Mason.

"That," she said, "is my marriage certificate. This, a file of the divorce proceedings, and here," her fingers pressed the document against the writing pad as though to crush it, "is the contract which that woman had the effrontery to send with her offer of compromise."

Mason looked casually through the court file; then he opened the contract and carefully read it, and I, standing by the table, read it also. It was a rigid agreement by which this first Mrs. Porter, in consideration of one million dollars, received from Charles Porter, agreed and bound herself not to contest or disturb the decree of divorce; and in order that the signature might not ever be questioned, it was to be acknowledged before a notary and witnessed before the clerk of a court of record under his official seal.

"You will observe," said the woman, "that this paper is an iron-clad contract. My attorney says its terms could not be more bindingly put."

"That is true," replied Randolph Mason.

"And," continued the woman, "by its terms I would, in point of fact, be agreeing to surrender an

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estate of six millions coming to my son here and to me at Mr. Porter's death for this one million delivered to me now. Is not that true?"

"That also is true," replied Randolph Mason.

"Then," said the woman, "this adventuress is a fool if she thinks I would sign it."

"Madame," said Randolph Mason, "you must sign it."

Mrs. Porter looked at Randolph Mason a moment in complete, utter astonishment. Then an explanation suggested itself and she smiled.

"I see," she said, "you will use this paper in order to get the money delivered into your possession or where it can be held by law, but you will not give it to that woman."

Then her voice became almost masculinely resolute.

"I know this to be a piece of difficult strategy. I wish to put it wholly into your hands. I wish in no way to interfere with you. I want to do exactly as you direct. But I do not intend to give away six millions for one. I will sign this paper if you assure me that it will under no circumstances pass out of your possession to the loss of my boy's inheritance. Do you promise me that?"

"I promise you that," replied Randolph Mason.

Then I conducted St. George Fairfield Porter and his retinue to a notary public and the clerk of a court of record, had Mrs. Porter properly identified and the paper signed and executed as its terms required. The young gentleman labored for my entertainment on the

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way. He pointed out the various colored "gups" drawing carriages, the "meows" sunning in the doorways, the "giggles" singing in the green trees of the Park, and once, for the better safety of us all, lashed How-de-do soundly with the dog-whip.

We parted at Twenty-first Street, friends, one looking on there would have sworn, till death.

I pressed his hand lovingly, but he would not permit the acquaintance to end so coldly. He gave How-de-do into the keeping of his mother, then ordered me to "up-go" him, and planted a wet kiss somewhere in the region of my ear. After that I would have done murder for him.

When I returned with the executed paper Randolph Mason seemed already to have forgotten the interview. He was writing at his table, stopping now and then to consult a digest, open among other books before him. I waited for a few moments, then I laid the paper between the open pages of the digest. When he came again to examine the reference, he picked up the paper and held it out to me. I saw that his attention had departed from Mrs. Porter's affair. I took the paper back and explained carefully what it was.

"Yes," he replied, without looking up.

"But, Mr. Mason," I urged, "what shall I do with it?"

He wrote on.

"Take it to the woman and get the money," he said.

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I thought he could not understand—he would hardly direct me to deliver the paper to the adventuress on Long Island, after his deliberate promise. I went again over the case, calling his attention directly to his word. He looked up then, his eyes wavering.

“Parks,” he said, “you disturb me.”

I should have gone out but for the memory of St. George Fairfield Porter—I felt his little fat hand clinging to my fingers, his fortune in my keeping. I braved Mason before the table. I explained, urged, denounced such an act of infidelity as the surrender of this paper. I spread the contract open above the sheet that he was writing. He sprang up then, his eyes blazing, his clenched hand hammering the table.

“You vex me,” he said, “you harass me. What do you want?”

“I want to know what to do with this paper,” I responded.

“What to do with it?” he cried. “I told you! Go out now.”

Then he dropped back into his chair, oblivious again to his surroundings.

I felt that I had done all that it was possible for me to do. If he were determined to violate his word, why, then, doubtless he had a sufficient reason for it. Perhaps the divorce was not invalid after all. At any rate, he was the person in authority, the one responsible. But had his mind returned to this matter? Did he understand what I was asking? Was he not, in

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fact, merely annoyed by a supposedly meaningless interruption? I feared it.

Nevertheless, I obeyed him. I took a motor-car and went down to the residence of Charles Porter on Long Island. The house, enclosed by enormous hedges, sat on the border of the Sound, a few ancient trees contrasting their green with its silver gray. A yacht hung out beyond in the water. I left the chauffeur with the car before the door, and knocked. By a mistake of the maid I was taken at once into the presence of Suzanne Kinsky. As a highly-colored incident, this scene remains strikingly vivid, it seems yet out of proportion to other events of life, although it continued perhaps not twenty minutes.

The room into which I was shown was littered with the light articles of ocean travel, with heavy coats, rugs, portmanteaus. In the center of the room an open steamer trunk was packed with stocks, bonds and bulky packages of currency. A little, dark, glossy-haired woman, robed in a Japanese wrapper, was writing at a desk. A man, whom I instantly recognized as a notorious attorney of New York, one Levin Howell, the famous counsel of actors, adventurers, criminals with filled pockets, was standing at the window, his back to me, his fingers drumming on the pane. He turned around and regarded me with an expression of profound astonishment. For a moment he was too overcome to speak, then he began to stammer.

"Good heavens!" he said, "this is not my partner.

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This is Mr. Parks, the secretary of Randolph Mason."

The woman writing at the desk flashed to her feet like cotton touched with fire. For a step or two she advanced on me as a weasel might upon some larger creature. Then she turned viciously on the maid, and cursed her in French, German and Italian, until, in the Lorraine peasant's figure of speech, a fly passing would not have lighted on her.

I gleaned an explanation from this lurid damning. The attorney was expecting his associate to come for him in a motor, the maid had been directed to admit him at once on his arrival and, naturally, she had taken me for the man.

The infuriated woman slapped the maid's face, pushed her out of the room, locked the door and turned to me, her eyes again shimmering beadily, like a weasel's.

"What do you want?" she said in English, biting at each word as it came out.

I had no wish to be scratched to pieces, so I took the paper out of my pocket and swiftly explained my errand. The pistol, the scalping-knife, the acid bottle, instantly vanished. A moment's calm fell and then the sun flooded that theater of savagery. Thus a convict escaping from the death-cell would have acted, if, as he climbed the wall, a guard had touched him, and, turning about desperately to meet a bullet, he should be handed a reprieve. The woman and her attorney carried the contract to the desk, spread it

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out, read it and re-read it absorbingly, surely as that convict would have done his pardon. Then they talked whisperingly together while I waited. Finally, the attorney spoke to me, holding the contract in his hand.

"If you will pardon me a moment, Mr. Parks," he said, "until I verify these signatures, we will conclude this matter."

He went out into the hall to a telephone. I heard him call up the clerk and the notary. While he talked I had a little leisure to examine Suzanne Kinsky. Her complexion was of that deep, beautiful olive to be found only in the south of Austria. Her hair was heavy with the purple-black gloss of dye, although it was certainly not dyed. Her figure, fallen now into repose, was sensuous and dainty; her hands were especially tapering and beautiful, but her ankles were thick—the ankles of a ballet dancer.

In a few minutes the attorney returned.

"Mr. Parks," he said, "this contract seems to have been properly executed. My client will accept it. I think you will find the full consideration packed in that steamer trunk in money and securities."

I went with him to the open trunk and, in ten minutes, had verified its contents. The bulk of the fund was in securities and the remainder in banknotes of large denominations. These securities were difficult to value accurately. I thought the trunk contained some twenty-eight thousand dollars more than the required sum. Howell thought it contained forty thou-

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sand more. We compromised finally at thirty-five, and he took out that sum in currency. I closed the trunk and carried it myself to the motor-car.

Then I returned up Long Island to New York, the first man since Kidd to travel there with a chest of treasure, albeit to the passer I appeared to be merely one returning to his town apartment with a rather knocked-up steamer trunk, held together by a broad leather strap. I wondered, as I went, into what pleasing scene this changed situation fell at my departure. I had come evidently, by the maid's blunder, upon a flight. I had entered, to the danseuse an instrument of the law with some detaining writ, and was changed into a friendly herald of surrender. I had brought, against all hoping, peace, the end of harrowing uncertainty—a signed instrument of settlement. Three millions to the adventuress for one!

That hour was highly colored, and yet the hour arriving passed, I think, beyond it. At three o'clock I had set the trunk down in the office of Mrs. Porter's lawyer, and explained its contents. He called her instantly by telephone, and once more St. George Fairfield Porter came before me with his retinue, the only one of us on this dramatic day a gentleman unmoved, and yet the one whose fortune was in peril.

Again I saw a woman cast from one emotion violently to another—a woman of a higher order, and yet the situation was no less one of desperate drama. Mrs. Porter had taken the message to her for some clean recovery of the money, and came elated as to a

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victory. When she had the story, when she knew that the contract of settlement had been delivered for it, she fell upon that instant to the very grave-floor of despair. By this folly of Randolph Mason she had lost the major portion of her boy's inheritance. He had surrendered the paper against his promise, he had broken his word immediately, he had given up for one million dollars their claim to the estate! The thing in the acuteness of its injuries was criminal, and yet there was here no violence, no bitter word, no ravings of hysteria. The woman was terrifyingly quiet, her face fallen into a painful stiffness. In that hour I admired her lawyer. He made no comment upon this verification of his own advice, upon this blunder of Randolph Mason, upon failure following where he said it certainly would follow. He set the trunk on end in his office vault and took his client to Randolph Mason.

I carried St. George Fairfield Porter from the carriage to Randolph Mason's house. I was still his loving friend, although by my act I had lost him and his mother on this day six million dollars. He patted me softly on the shoulder and, by infant magic, changed me to an Arab charger, urged gently with the dog-whip. Then he placed the murderous How-de-do astride my collar with various equestrian directions. So little a thing was six million dollars against a friendship. Since I was set wailing in this world, I have not gone two hundred feet with a keener misery.

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We found Randolph Mason writing at his table, where I had left him. In his presence the distressing dumbness which had fallen on Mrs. Porter for a moment lifted. She went forward resolutely to his table.

"Mr. Mason," she said, "why did you break your promise to me?"

Randolph Mason arose and, seeing me, ignored her query.

"Parks," he said, "did you get that money?"

"Yes," I answered, "I did exactly what you directed me to do. I took the contract to Suzanne Kinsky and got the money for it."

"Good!" he said. Then he turned to the woman standing by the table.

"Madame," he said, "I have kept my word rigidly. I said that this paper should not pass out of my possession to the loss of your child's inheritance. I have kept that promise. You have now in your possession the one million of dollars which you wished me to secure, and, under the laws of New York, you and your son will inherit the remainder of the estate of Mr. Porter at his death."

"But, my dear sir," interrupted the attorney, "you have delivered an agreement by which Mrs. Porter binds herself not to disturb the decree of divorce granted in Connecticut. That paper will be filed in bar of any proceeding now taken to establish her right to the fortune as the true legal wife of Charles Porter. You seem strangely to have overlooked the effect of this agreement."

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"I have overlooked nothing," replied Randolph Mason.

Then he took up a book from the table, opened it at a certain page, and handed it to the attorney.

"There," he said, "is the leading decision in this country, holding that where a decree of divorce has been wrongfully obtained, a subsequent agreement among the parties that it shall not be disturbed is an illegal contract, void, as against public policy."

For the legal principle involved in this story see *Comstock v. Adams*, 23 *Kansas*, 513, 33 *Am. R.* 191; *Black v. Nohl*, 102 *Mo.*, 159; *Haddock v. Haddock*, Supreme Court of the United States, 201 *U. S.*, 562.

The courts of New York have invariably refused to treat a divorce rendered in another state under the circumstances stated, as entitled to be enforced in New York by virtue of the full faith and credit clause of the Constitution of the United States; and, indeed, have refused generally to give effect to such decrees even by state comity. *Haddock v. Haddock*, *supra*, citing *Lynde v. Lynde*, 162 *N. Y.*, 405; 48 *L. R. A.*, 679, 76 *Am. St. Rep.* 332, 56 *N. E.* 979; *Winston v. Winston*, 165 *N. Y.*, 553, 59 *N. E.*, 273.

CHAPTER XIII

THE INTRIGUER

I WAS one of that fortunate audience before which Gafki played the "Bronze Helmet" at the Broad Street Theater in Philadelphia. It was a notable event in America. Gafki came directly from Berlin, and staged the drama in its every detail, as he had done it for the Emperor at the National Theater on Unter den Linden. Philadelphia society possessed the Broad Street Theater that night. A prohibitive tariff, wisely set by Gafki, barred out the rabble.

I can recall but few details of the "Bronze Helmet" after the first act. When the curtain came down I went over to the box of the aged Mrs. Van Couver-Benson to talk a little with Margaret Garnett. She and her father, the president of the Consolidated Fuel Railroads of Pennsylvania, were about to sail for a winter's visit with our Ambassador at London, and this was my only opportunity to present personal adieus. Mrs. Van Couver-Benson is a mere wisp of a woman, one at the road's end, painfully clinging a moment longer to life. She sat in a corner of the box, a bit of breathing wax covered with costly laces, isolated by deafness. Margaret Garnett was alone,

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but for this senile aunt. She was usually alone. Women were not attracted to Margaret Garnett; she was too like her father for them—aggressive, dominant, impatient of all gentle artifice. In appearance she resembled Mr. Garnett—big like him, the same tawny hair, the same pale-blue eyes full of light. With the men found usually in a life of leisure she was as little popular, her disdain for them came out too quickly. The girl loved force, the swing and drive of things in action. The weakling, the one awaiting opportunity on his doorstep, drones, wallowing in honey that another's toil had gathered, annoyed her. She was the sort of woman that envoys, were they old and loved their land first, would have chosen consort for a decadent ruler. I do not mean that Margaret Garnett was of masculine grain. She was an attractive woman from an English point of view. I thought the friends of our Ambassador at London would adore her.

She welcomed graciously my arrival in the box.

"How do you do, Courtlandt," she said. Then she waived a presentation to the ancient aunt with a screening pleasantry. "Aunt Van is absorbed in the perils of Cæsar; sit down by me."

I sat down, and touched at once on the motive of my visit. "I came," I said, "to wish you favorable winds."

She turned to me instantly. "We are not going," she said.

"Not going!" I echoed. "Why not?"



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She laughed a little. "There is a man in the way."

I flicked the chair arm lightly with my finger. "How little a thing," I said, "to stay the sailing of Semiramis."

"Not so little a thing," she answered to my flip-pant sally. "If you will look presently at the first chair of the fifth row on the right of the center aisle, you will see him. Is he, then, so little a thing?"

I looked a moment later with a rising interest. The man who sat in that first chair of the fifth row was never a little factor in any human equation. He was on this day a star deflecting the orbits of political leaders in his State, one playing at the Grachii—the Commoner, sustained by the toiling hive, as was Antæus by the earth. He controlled that hive, but he was not of it. He came of a family older yet than Penn; one powerful under the first Congress, but afterward contentedly fallow through idle generations, and now, by the medium of this man, returning actively to life. In presence he was suited to this rôle. He could have stepped over the footlights and led fittingly the Tenth Legion, which Gafki was bringing now through the wings from Gaul. He was six feet and two inches over. His face was long and firm-grained, carrying lines of energy, his eyes hard and direct, his head big, covered closely with short-cropped hair, full in the regions of vitality.

The career of this man was something of a wonder to us all. Commanding by his birth a station of the highest order, he had of his own volition become a

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leader of the people; and then, when he stood an authority to be reckoned with in the placing of federal patronage, he chose strangely and with a small spirit, we thought, the position of a United States marshal. The men who usually got this office were aspiring sheriffs. Why, then, did this man, reared in kings' houses, thus strangely wish it?

I forgot on the instant Gafki and his "Bronze Helmet." Here was indeed news. The engagement of Margaret Garnett! The big Englishmen would not haunt now our Ambassador's house in Park Lane. The tall girl's destiny had arrived.

I made the usual conventional speeches, a bit highly colored, I fear—rather eulogistic, over-appreciative, laden with tropical platitudes.

She heard me, like a sphinx, calmly to the end, then she dropped a guillotine knife on the dainty speeches.

"Very pretty, Courtlandt," she said, "but you are giving tongue on the wrong trail. Mr. Wood is not at present intending to marry me. He is absorbingly engaged in an effort to advance his own fortunes, somewhat at the cost of my father's."

I stammered my way back, and she went on, covering thus unconsciously my confusion.

"I fear that father is not coming off as he would wish in this contest with Mr. Wood. He laughed a little at the opening skirmish, somewhat like Gafki's Cæsar, sitting in his tent; but within the last month he has advanced his standards, as Cæsar always did when he was being cut to pieces. You see how much

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I am influenced by this thing of Gafki. Father has abandoned our winter in London. He must be here, happy if by being here he can prevail against Mr. Wood. It is in this manner, Courtlandt, that the man at the end of the fifth row is standing in the way."

I was still deeply puzzled. How could one of but moderate fortunes, a mere United States marshal, interrupt thus seriously the plans of an industrial emperor like John A. Garnett. I waited for further explanation. It did not immediately come. The tall young woman looked down for a moment at the big military figure in that first seat of the fifth row. Her eyelids gathered in little quivering lines at their corners, the dainty muscles of her mouth lifted, thrusting out its band of scarlet, the delicate nostrils distended visibly. It was a deep, scrutinizing glance, searching, charged with interest, reservedly emotional. Then she came back to me almost with a sigh, and I made ready for the details of the fight against the great president of the Consolidated Fuel Railroads of Pennsylvania. It must be a driving, brutal, savage warfare so to force John A. Garnett into a corner and his daughter to such incredible interest. When she spoke her words seemed irrelevant.

"Courtlandt," she said, "tell me about Randolph Mason."

"Randolph Mason," I echoed. "What interest can you have in Randolph Mason?"

"You will learn that a little further on," she said. Then the dominant quality in her, in her father, in

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every Garnett, came imperiously forward: "Begin now, Courtlandt, please, I am listening."

I began then with what willing spirit I could summon. I bid her imagine a great lawyer striving day after day tirelessly with the legal problems of his clients, until he came finally to see only the problem, with the people in it mere pieces on a chess-board; how such a one would gradually lose sight of every human relation, every emotion, every end, other than the solution of the problem. This was Randolph Mason. I could not give a better description of him. We had, as yet, no system of weights and measures for genius, or, if one chose so to call it—madness. I gave in detail the staggering successes that had followed his daring plans. I pointed out how the man had apparently come to believe himself the equal of Destiny, in fact, something more than an equal, since he now assumed to correct those apparently hopeless cases of injustice called, usually, fated.

Margaret Garnett listened closely, putting now and then a query, and glancing now and then at the man who sat applauding in that first chair of the fifth row, as though to establish, somehow, a relation there with this mania of Randolph Mason. It was evident that I was telling her nothing that she had not already heard. Her questions were of one seeking confirmation of things already told rather than first knowledge of them. Presently she set her elbow on the box rail and her chin in the hollow of her hand.

"I am almost wishing, Courtlandt," she said, "that

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Randolph Mason would refuse to assist my father in the fight with Mr. Wood. It seems to be making the game unfair, like the Rhine helping the Germans there against Cæsar. This drama of Gafki, like all Homeric echoes, outrages my sense of fair play. There was not, as I remember, a clean fight in the whole Iliad, some god was always lending a hand."

She sat a moment silently watching Cæsar's pontoon bridges sucked under by mysterious currents.

"No sooner is one fairly beaten," she continued, "than he posts off hot-foot for the big outsider to assist him. There go the Germans tossing the Bronze Helmet into the Rhine to buy aid of the devils—and my father's counsel at his wit's end is turning to Randolph Mason."

She laughed, a bit affectedly I thought.

"I ought, as a dutiful daughter, to hold a keener interest in my father's side of it, I suppose," she said. "If Mr. Wood is not checkmated, father's railroads will go into receivership; and if my father crushes him, he will go, in every sense, under the ax. So I ought to be fired with a certain barbaric eagerness for victory, and so, in a way, I am. But somehow, at the bottom of me, I wish to see the fight fair. No handicaps, no Olympic legging, the winning to the best man."

The fingers of her hands clenched, the pale blue of her eyes became the harder blue of metal.

"Straining muscle against straining muscle, wits fiercely hand to hand, with the cross for the con-

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quered. That's the fine thing, Courtlandt, that's life! only let the fight be fair."

This impassioned speech was interrupted by a thin piping voice, little more than a bird's chirp. "Please, Margaret," it said, "I am tired. May I go home?" The old aunt had awakened. Her face was plaintive, like a child's. Time, having made life's circuit with her, was returning her to dissolution by the cradle.

I summoned the old woman's maids, and they got her, with the footman's assistance, to the carriage. I went out with Margaret Garnett. She harked back to her theme a moment as I took my leave of her. "Good-night, Courtlandt," she said. "Please keep Randolph Mason a neutral in this fight. It is too fine a struggle to be spoiled by an outsider. If father wins, I shall have this man's head on a charger, if I wish it. If he loses, let the victor sell me into slavery."

It was thus that on the stage the daughter of barbarians was speaking in the haunted forests of the Rhine. The Bronze Helmet should not be offered to the gods for aid. If the Germans could not beat Cæsar back with their own arms, let them die in the river marshes.

I remained for some time standing by the curb after the carriage was gone. I had evidently come by chance upon a case to go before Randolph Mason, a case involving the fortunes of no ordinary persons, but of John A. Garnett, Thomas B. Wood, and this enigmatic woman. I could not come very clearly to

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Margaret Garnett's point of view, it involved a conception of fair play too purely academic; it returned to a heroic note; it was too ideal for this commercial decade. Such an attitude was well enough in a Greek tragedy, or in that German princess conjured up by Gafki, but not in Margaret Garnett. Still her feeling was doubtless a passing mood created by this drama, women were notoriously subject to such influences; it would vanish with eight hours of sleep.

I turned to call a hansom, when one of the theater attendants touched me on the arm.

"I beg your pardon," he said; "can you tell me if this article belongs to Miss Garnett? It was picked up by an usher in her box." He held in his hand a flat gold locket attached to a chain linking alternately a topaz and an opal. I carried the locket to the light and examined it. The case was without a mark. I pulled it open to see if there was any inside, and I found there such a one as left no doubt remaining. The locket contained the picture of her father, and opposite it, of all persons on this earth, the face of Thomas B. Wood.

So the girl's heroic mood antedated Gafki! This struggle was the one big, thrilling incident of her prosaic life. Like a woman, she had defied the actors in it. The nice balance of the struggle was not to be disturbed even at the price of victory. The fight had taken on the fine lines of a Latin tragedy. The girl's mood was the pure joy in combat sung of by the lyric poets—a thing anachronistic.

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I returned the locket to the waiting lackey. "It is certainly Miss Garnett's," I said; "you would better send it immediately to her residence."

Then I took a hansom to the Pennsylvania Station. This case on its way to Randolph Mason was of consuming interest.

On Thursday morning the counsel of John A. Garnett called on Randolph Mason. When Pietro brought him into the office I took him for some celebrated actor; his face was of that pronounced classic cast associated in the public mind with the masks of Thespis; its expression was one of supreme imperial serenity, like that on the faces of the stone lions in the Plaza before the Basilica of Santa Maria Maggiore in the Eternal City, if it were only gentle. His voice when he spoke was deliberate and charming.

"I have the honor," he said, "to address Mr. Parks, I believe, the secretary of Randolph Mason. My name is Alger. I am here on a matter for John A. Garnett."

I hid under a conventional greeting the flaming interest which these words lighted. Here was the envoy which Margaret Garnett said her father was about to send. I did not know that this meeting was by appointment, until Randolph Mason appeared on the threshold of the folding-doors between the two rooms. He spoke to me.

"I shall be engaged with Mr. Alger for the next half hour. Direct Pietro to admit no one." Then he

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went back into the room, followed by the attorney. I presently found Pietro, gave him the directions and returned to my table, where I could witness through the folding-doors this conference which Margaret Garnett wished so greatly to prevent. It was Randolph Mason who began the conversation.

"Can you give me briefly," he said, "the history of this case?"

He was not impressed by the prominence of the factors in this matter, nor yet by the striking personality of the attorney who appeared in it. He awaited with interest the problem itself; its inherent qualities took no color from the identity of the individuals concerned.

The attorney was not moved to a hasty recital by Mason's abrupt impatience. He sat down in a chair before the table, lifted his face, serene with that deep internal composure common to those who are accustomed to speak the last irrevocable word, and regarded Randolph Mason as he doubtless would have regarded some strange, unfamiliar tribunal, to be carefully addressed. When he spoke, his voice was as clear as glass, although it seemed to loiter on the sentences deliberately.

"I cannot give you this matter briefly," he said; "a certain elaboration is unavoidable. A recital of mere overt acts will not convey a sense of that large plan to which they are preliminary. I must be pardoned if I add some collateral features and some comment."

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Randolph Mason's face took on an expression of unwilling assent, such an expression as one observes frequently on the face of an examiner in the courtroom, who, failing to bring his witness clearly to the issue, abandons him to his own manner of recital. He sat down in his chair, placed his hands idly before him on the table and then dropped his body leisurely back, like one hopelessly fated to a long story. These suggestive actions were not lost on the attorney; he knew exactly by what mental conceptions they were inspired. A faint shade of color came for an instant into his face and vanished, but his voice deliberately continued:

“The Consolidated Fuel Railroads Company, of which John A. Garnett is president and chief owner, is made up of the principal lines running into the Pennsylvania coal fields. They reach some five thousand workings, employing several hundred thousand men. They are the avenues by which this product is conveyed to the seaboard. This railroad company depends for its tonnage, and therefore for its existence, exclusively upon the production of these mines. If these mines are idle the railroad is idle, but with the distinction that a mine can shut down and lie so without expense, while a railroad must continue as an active concern, no matter at what a loss. Now, as you are doubtless aware, an effort is being made to organize these miners into a union. The result is that an epic life struggle is about to open between the railroad and its mines on one side and the representa-

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tives of the labor unions on the other, the sort of industrial conflict that means bankruptcy for the one and starvation for the other. The men have not money enough to keep their families for a month, and the railroad company, having no tonnage, will necessarily make default in the payment of the interest on its bonds, and go into the hands of a receiver."

The attorney paused. His serene face lifted into a beautiful profile. Then he continued:

"The only authority of this Republic standing in the way of anarchy is the federal courts. They alone, under every emergency, rigidly sustain the law. If it were not for their writs of injunction, fearlessly issued, fearlessly enforced, the industries of this country would pass into the control of vicious and ignorant mobs. All rights of property would cease, revolution would arrive. The judges of these courts, called 'imperial,' called 'iron,' are our greatest patriots. But a court must have officers. The hand signing the writ must be supported by the hand serving the writ. An order, no matter how fearlessly entered, must fail of its purpose if it be enforced with excuses. I come now to the very heart of this matter. Mobs do not break out into rebellion unless they have an ally sitting somewhere in authority. This strike threatened in Pennsylvania has such an ally. It would fail, it would collapse like a punctured balloon, if his aid were removed. I do not mean any of the judges; they are incorruptible. I mean Thomas B. Wood, the United States marshal.

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“A word must be spoken about this remarkable man to make that charge clear: He is thirty-eight years old; he intends to be a United States senator, and, what is more important for the future, he intends to remain one. To remain a United States senator is infinitely more difficult than to become one. To enter, one need have behind him only the people; to remain, he must have behind him that which is more constant than the people—wealth.

“Bear in mind that Wood’s intention was to become a senator. He began, then, with the people. He attached himself to all movements in behalf of labor. He observed the clamor of the man with the pick, the man with the apron, the man with the hammer. He appeared to listen, to consider, presently to be convinced, and, finally, to advocate what they said. Then, under that law which I do not understand but by virtue of which Mirabeau, a noble, became the idol of the French Revolution, this man, an aristocrat, became a leader of the people. So when his party came presently to national power, the great heads of it found him there to be dealt with. What did he want? They said it with a certain deference. He might have demanded his seat in the upper Congress then, but he could not hope to remain there, he had no pedestal of gold under him; he was standing on the sands. He chose the position of United States marshal. The leaders gave it with a certain wondering contempt, and dismissed him from their catalogue of fears. He was, then, a person

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of no ambitions—one struggling titanically for pottage!

“Immeasurably not so! The political Warwick of Pennsylvania is John A. Garnett. The power under him is the Consolidated Fuel Railroads. Wood wished to direct that Warwick, to control that power, therefore he chose wisely the only position in which he could destroy him, that of United States marshal. Garnett, usually clear-headed, usually far-sighted, usually running swiftly before events, saw the thing forty-eight hours too late, and, consequently, he is ruined.”

The attorney's voice went up lingeringly on the word, like that of a singer on a final note, as though to express thereby something of the magnitude of that ruin.

“With Wood standing now between the striker and the judges, the greatest industrial contest in our history is beginning. The mines of Pennsylvania will become smoking holes in the earth; the railroad, two bands of rust, and Garnett, a pauper. All this certainly, swiftly, inevitably, is arriving, unless this man can be removed from office. He cannot be removed. He will neglect no duty, refuse no duty; he will conduct his office exactly within the law; but somehow, always by inexplicable accident, his injunction orders will be ineffective, his writs will be preceded by rumor. One does not fear even the knout when wielded by a brother.

“It is ruin then, on the man's terms, which are a

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voting control of the Consolidated Fuel Railroads, the position of first vice-president, a political dictatorship above and behind Garnett. Then he will resign. With Wood stepping down from the position of United States marshal, the strike will crash through like a rotten bridge, Garnett's commercial plans will go smoothly on to the piling up of millions; but Garnett will have a master, and Pennsylvania a senator with a life tenure in office."

The attorney leaned forward in his chair, his eyes rested steadily on Mason, the index finger of his right hand arose in a direct and a significant gesture.

"The problem, then," he said, "is to remove Wood without the payment of his price—a thing no man can do."

"A thing any man can do," replied Randolph Mason.

"How?" said the attorney, his finger still lifted, his voice still impressively deliberate.

"Leave that to me," said Mason.

The attorney drew in a deep breath, as though for a moment he had forgotten to supply his lungs, and leaned back in his chair. He put up his open hand and lingeringly stroked his face, running the tips of his fingers from the forehead downward over the cheek-bones to the chin. This situation, in which he took directions from another, was staggering and unfamiliar.

"Very well," he said. "What am I to do?"

"What have you intended to do?" replied Mason.

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"I see nothing to do," continued the attorney, "other than to accept the conditions of Thomas B. Wood—to surrender, to give him what he demands."

"Do it then," said Mason.

The voice of the attorney arose again lingeringly on his words.

"You give it up then, you bid me ruin Garnett?"

"I bid you save him," said Mason.

"But," continued the attorney, "when this agreement is once effected, what will be there to save him?"

"I shall be there," replied Randolph Mason.

WHEN the attorney left after his conference with Randolph Mason, I wrote a note to Margaret Garnett. "Have a care," I said, "Randolph Mason is no longer neutral."

The next morning brought an answer in the large, firm writing of an Englishwoman: Miss Garnett would be at the Dresden at one o'clock. Would I come there? I was there at the hour, and we lunched together. I thought Margaret Garnett, in a dark-blue traveling-dress that fitted perfectly to her figure, more striking, more splendidly impressive than she had been on the night of Gafki's drama; besides, she was now aroused; her face showed inquiry, care, a moving energy. Although John A. Garnett had no

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son to sit in his place after him, yet when death should strike him all that he had been would remain vital in this daughter.

In spite of the fact that directness was the first quality in the nature of Margaret Garnett, I thought she approached the subject in question with trepidation. She did not ask me for the story of the conference. She drew out, rather, here and there a feature of it by some subtle query, put inconsequently in the course of our talk. I have seen an expert counsel touch thus delicately on a matter which he feared to draw wholly out, and yet of which he must know the essential features. It was like one putting forth a hand gently in the dark, when the electric light switch was on the wall by his shoulder. A method peculiar, but not exclusively peculiar, to a woman.

Presently, when she knew in general what had happened, her face took on virile firmness.

"Courtlandt," she said, "you are evidently not a poet, or else you would see how deplorable a thing it would be to spoil this struggle between my father and Mr. Wood. The Titans are mostly dead. It is an age of quibbling over the fractions of per cent. Only now and then does a heroic figure rise, and more rarely does such a one find an equal standing in his way. Then, for that straining hour, is the world worth living in. Events are marshalled and swung crashing into each other. Men are trod on like flies. Things called valuable, things called precious, are heaped up for a moment's barrier, like the discarded

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rubbish of a garret. The ticking of the clock is epic."

She was leaning forward over the table, her elbows on the linen cloth, her fingers linked under her chin, her blue eyes beautifully full of light.

"It would be crude, barbaric, ugly to throw to one or the other a balance of power. It would ruin the high dramatic tone of the game; it would be vandalism, like spoiling a canvas of Raphael, or a manuscript of Horace. Besides, Courtlandt, it is against our sense of justice. There is in every man, in every people, a conception of fair play as deep-seated and abiding as the instinct of life. It is that, I think, upon which all justice is founded. It is the only ideal in us that even tyrants dare not openly outrage. In his most absolute hour, if two beasts evenly matched had been fighting in the circus maximus, not even Nero would have dared to assist one against the other with an arrow."

I would have turned such a speech of any ordinary woman with some idle pleasantries, but Margaret Garnett was no ordinary woman. She was not repeating platitudes for the sake of their sound. She spoke earnestly, passionately what she evidently felt. But I could not understand that feeling; I could not bring it out of Hellenic shadows to be the inspiration of a twentieth century young woman, gowned fashionably, at luncheon in a New York hotel.

"Miss Garnett," I said, "this is all 'very beautiful,' to quote your own appropriate words; but,

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pardon me, are you not 'giving tongue on the wrong trail?' These lines should be spoken to Randolph Mason, and not to his flattered, but powerless, secretary."

She colored perceptibly; then her face took on resolution. "Very well," she returned, "I will say them to Randolph Mason."

I wished then that I had said nothing. It was worse than idle to go on such an errand to Randolph Mason. The girl would not understand Mason's unconcern, his lack of the usual courtesies of life, his abrupt dismissal of her, or his ruthless questioning. I tried to dissuade her, but I might as well have pleaded with Cerberus. The idea suggested suddenly by pique seemed to her on reflection to be a plan of wisdom. With every word I said, she grew more wedded to it. Since her father's attorney had gone to Randolph Mason, she, too, would go to him. If he had listened then, perhaps he would also listen now. A lawyer presenting logically an argument was not always the most moving advocate. There was the case of Esther.

There was no escape, so I went with Margaret Garnett in her carriage to Randolph Mason. On the way she was unusually charming. There was a touch of adventure to this mission, and the high spirits attending struggle. Her impulses in this case were coming now to action.

When we descended from the carriage she stopped on the flag walk to admire Randolph Mason's house.

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It had the distinction of a ruin in this modern city, she said; it seemed to mark something old, important, forgotten, but enduring in an age of changes, and to be found thus exactly as it now stood, infinitely further on, when the city should have gone back again to ashes. It gave one, too, she said, the sensation of things inevitable and sinister, like a cell uncovered in a garden. It was a fit dwelling, she thought, for some influence that persisted, that threatened constantly, or constantly promised aid. It might be the ambassadorial residence of a vanished empire, maintaining in the world a mysterious envoy. To such highly colored fancies did this ill-kept colonial house, with its broken flag walk, its tile roof, its plaster columns, lead this imaginative woman.

She expected to find inside, she said, an Egyptian sitting in a chair of black basalt, his hands on his knees, his feet rising on the sacred lotus; or a Chinese Mandarin infinitely old, his long finger nails reaching down under sleeves of exquisite silk; or a Hindoo, squatted on a carpet, emaciated like a corpse, gazing forever into a mystic crystal. The girl's fancy was in an oriental riot. I wondered how she would meet that plain gray man, who was said to resemble the most advanced surgeon in Europe, and whose mania was the practical.

I began then, somewhat late in the hour, to prepare her for this meeting. I advised her of Mason's curious habits, of his unusual abstraction. I warned her against his abrupt, indifferent manner, his rigid,

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searching, brutal inquiries. If she had any sensibilities to be hurt, or any fragile ideas of courtesy to be outraged, we would do better to go back on the instant.

I was glad of this elaborate warning when the girl stood finally before Randolph Mason. I think there is no other man living who would have remained wholly unmoved when this splendid young woman came suddenly before him. She was no mere placid beauty, but force, intelligence, energy, all-vital, all instantly alert, like Jephthah's daughter, rather, had she gone to the prophet, speaking against her father's inconsiderate vow.

Mason deliberately laid down the pen in his fingers and lifted his head, with the expression of one who submits out of necessity to an interruption. There was no gleam of interest, of concern, even of inquiry in his face. He regarded the tall girl standing superbly before his table, her eyes illumined, her nervous hands gripping firmly the back of a chair, as he might have regarded a beggar, slipping in unnoticed through the door. He waited merely for the interruption to cease, the intruder to be gone.

"Mr. Mason," the girl began, "I am Margaret Garnett. I wish to inquire why you care so greatly for my father to prevail over Mr. Wood."

"I do not care," he said.

The young woman was evidently surprised. "What interest have you in my father, then?" she inquired.

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"I have no interest in him," replied Randolph Mason.

"No interest?" she repeated. "Why did my father's attorney come here?"

"Why do you come here?" returned Mason.

She began to speak then, her voice vibrating like the tense string of a viol. She repeated, but in finer sequence, all she had said to me on that night of Gafki's drama, and all that she had later said over our luncheon. But she said it now like one determined to be heard, determined in the end to be obeyed. She said it like an advocate, speaking for one's fortune, one's honor, one's life. She said it like one who had slept and eaten with every word uttered. Her sentences rushed, streamed out. The spirit of the woman came forth on the flood; she was deeply, vitally, passionately in earnest, speaking against a sacrilege, speaking against a wrong, demanding, urging, pleading with Randolph Mason to remain immovably neutral. Let the struggle between her father and this man be fair. Let its thrilling, dramatic balance remain undisturbed. She was the one whose interest for her father should be deepest, and she, above all things in this world, wished to see the game played out by the two now seated at the table. It was weak, cowardly in her father to come here for aid. If he could not win alone, fairly, like a man, then she, his daughter, Margaret Garnett, wished him to lose.

The woman thus fired with transcendent courage was superb. My blood sang under her words. The

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nerves in my fingers tingled, but Randolph Mason sat watching her with weary unconcern. When she had finished he lifted his face, hard as metal.

"May I inquire," he said, "why you are thus endeavoring to deceive me?"

The girl caught her breath as though she had been dashed with water. "I am not endeavoring to deceive you," she said.

"Why, then," said Mason, "have you made me these lurid speeches?"

"I have made them," replied the girl, "to acquaint you with my motive for wishing you to remain neutral."

"Pardon me," said Mason, "you have made them to conceal that motive."

The girl recoiled before this brutal thrust, like one before a blow.

"I do not understand you," she said.

"But I understand you perfectly," replied Randolph Mason.

Then he arose and walked past her out into the hall.

I returned over the flag-stone walk with Miss Garnett to her carriage. I could find no words of adequate apology. The warning I had spoken was strikingly justified, sententious regrets would be conspicuously vain. She was silent, like some voluble witness struck swiftly dumb by an amazing query. At the street gate she got herself once more courageously in hand. "Courtlandt," she said, "tell your cold, unemotional master that since he has so ruthlessly taken

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from my fingers as the weapons of a man, I shall meet him with the weapons of a woman."

I closed the carriage door, and she drove away proudly like an empress.

The only occasion on which I have ever known Randolph Mason to go out of New York in any man's behalf was when he went to the residence of John A. Garnett at Bryn Mawr, a suburb of Philadelphia. The railroad magnate and the aspiring marshal had arrived at terms, as I understood it, or, rather, the one had accepted in capitulation the terms of the other. The conference was to conclude this treaty. I accompanied Randolph Mason, as I usually did.

The Garnett residence at Bryn Mawr is one of the most distinctive in America. It is a reproduction in white marble of the Petit Trianon at Versailles, set exquisitely in a forest, with white glistening roads winding among the trees and a brook and a bit of manufactured meadow.

After so many hideous mongrels, this example of pure architecture is strikingly impressive, especially when one comes upon a view of it at some turn in the road. The face of the country for a mile on every side has been made, with endless expense, to resemble that lying about the Petit Trianon. I think the selection of this model was the work of Margaret Garnett. The place had been lately built, and could hardly have been the idea of an American architect. Still, when one came to fit this masterful young woman

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to the Petit Trianon there arose a lack of harmony. If the firm white fingers of Margaret Garnett had been touching, like those of Marie Antoinette, the throne of France, the bored beauties of the court would not have patted butter in the forests of Versailles.

This conference between the richest man in America and the most ambitious was held in the library of this transplanted Parisian lodge. Louis would have gone there for a conference with Mirabeau to avoid his ministers. It was a room on the second floor, admirably planned, the light falling softly from above, the walls paneled in Circassian walnut. A great table and chairs of that beautiful wood covered with morocco were the only furniture. An Indian rug, glistening like frost, soft, priceless, covered the floor like a skin.

I could not easily bear in mind in the atmosphere of such a place the hard, practical nature of this meeting. It was the hall of some stately council of Florence, sitting above the Arno, or, rather—and the fancy became almost real—it was the council chamber of some doge, where on this night he was to meet the captain of Barbarian armies lying with bared teeth along the Adriatic, and treat with him for the city. The men in this conference might appropriately have taken the characters of such a scene. Garnett, tall, white, impressively patrician, attended, like that doge, by two counselors, characteristic, I fancied, of an empire in the evening of decadence—his at-

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torney and Randolph Mason; and the other, this giant, this captain of Barbarian armies, courageously alone.

This romantic medieval fancy persisted. It became for an instant even more real when through an opening of the door I saw Margaret Garnett. She stood erect, motionless in the hall, her head lifted, her face strainingly alert. She was strikingly, superbly beautiful in an evening dress of white chiffon embroidered with silver lilies, a single gleaming strand of pearls falling to her waist, her hair vitalized, burnished by the jewels set in it. The lights of the hall threw her figure into alluring, exquisite relief. She was the daughter of a doge, awaiting the result of a fateful conference, out of which Venice would emerge, ghastly, streaked with blood, burning, or with peace at some staggering, hideous cost.

She was not listening. She carried rather the air of one depending upon some desperate hazard, the arrival of some event, the sharp stroke of some impending fortune. I recalled on the instant her words, which I had not repeated to Randolph Mason. What strategy had this woman laid? To what subtle, mysterious lengths had she gone in support of an idea purely lyric? Whence arose the potent, dominating strength of such a fancy as that moving her to jeopardize the fortunes of her father? Were these intangible, shadowy inspirations of romance, then, stronger in our lives than the love of gain, the love of power, the love of victory! She went slowly down the

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steps, her hands slipping along the marble rail of the balusters.

The attorney seated at the table began to read the protocol of treaty which he had drawn, and I came swiftly back to the commonplace business character of the meeting. The paper was merely an assignment under the legal form of a majority of the common stock of the Consolidated Fuel Railroads to certain persons named by Thomas B. Wood. The attorney explained that, in his opinion, no further writing was necessary. This assignment should be placed in escrow¹ and delivered to Mr. Wood upon the resignation of his office. It would put a voting control of the railroad into the hands of his agents, who would carry out his plan.

The strong, masterful face of the United States marshal set in a cynical smile. "This assignment is, I think, sufficient," he said; "but I will hardly take the chance of a legal battle over an escrow, after my resignation shall have been accepted."

Mr. Garnett and the attorney were disturbed. They spoke for the escrow persuasively, with elaborate care. This was a gentlemen's agreement.

Mr. Wood replied with telling irony. "A gentlemen's agreement," he said, "is subject to exigencies of memory. I will hand to you my resignation of this office, and you must deliver to me in return the assignment of this stock. The two papers must pass

¹ A fully executed writing, but put into the custody of some third person to hold until the fulfilment of some condition.

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here without attaching strings to them. The resignation to you, the assignment to me."

The negotiation seemed on the instant to be conclusively blocked. Garnett insisted upon the protection of an escrow, and Wood upon the possession of the paper before he irrevocably resigned his office.

Randolph Mason came forward then, sat down at the table, dipped a pen into the ink pot and turned toward the United States marshal.

"In consideration of the assignment of this stock to your trustees," he said, "you agree, I believe, to resign your office."

"You have it correctly," replied the man.

Randolph Mason drew a writing pad over to his hand and wrote rapidly a memorandum of the same date as the assignment, reciting the consideration for the transfer of the stock. He spoke then to the attorney. "Give me the assignment," he said. Then he added a line at the bottom, showing it to depend upon an agreement of the same date. When he had finished he again addressed the United States marshal. "Prepare your resignation," he said.

Mr. Wood sat down opposite Mason at the table. He wrote out his resignation of the office of United States marshal; then he placed his hand on the paper and spoke to Randolph Mason. "I do not see that we are any further along," he said. "I will not consent to an escrow under any agreement, no matter how explicit."

Randolph Mason did not at once reply. He pre-

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sented the paper which he had written to Mr. Garnett for his signature. While the railroad president was signing the assignment, the attorney answered for Randolph Mason, explaining that the agreement should be filed with the trust company holding the assignment, in order that the terms of the escrow could not be mistaken.

The powerful hand of Thomas B. Wood, resting on his written resignation, clenched. "I will not consent to an escrow," he repeated.

Randolph Mason thrust across the table the paper which he had made out. "Sign that," he said.

The man took the memorandum, affixed his signature and laid it on the letter of resignation under his clenched hand. His face darkened. "I trust," he said, "that my words are intelligible. I have twice said that I would not consent to an escrow."

"There shall be no escrow," said Randolph Mason.

The attorney for John A. Garnett leaned forward in his chair. "How then," he said, "is Mr. Wood to obtain this assignment?"

"I shall give it to him," replied Randolph Mason. Then he picked up the assignment and handed it to the United States marshal. "Take this," he said, "and leave on the table the papers under your hand."

The shadows in the resolute face of Thomas B. Wood vanished. He got up, put the assignment into his pocket, buttoned his great coat, took up his driving gloves from the table, bade us good-evening and went out of the room, down the stairway to his horses.

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I came back wonderingly to Randolph Mason. His boast that he would be here to prevent the ruin of Garnett was idle. He rather had speeded that ruin. The attorney regarded him with cold serenity.

"Have you in fact," he asked, "any interest in the success of John A. Garnett?"

"I have not," he said. Then he continued, like one explaining briefly to an annoying query. "I am interested only in removing this man from his office, in correcting thereby the wrong of his appointment."

"Ah," said the attorney. "I understand, then, why you so readily cut from under us the only possible foothold against this man—that of an escrow. With Wood once out of office, the delivery of this paper might have been enjoined."

"Sir," replied Mason, "your purposed flimsy trick was patent even to Wood."

"Perhaps," said the attorney, "but in a shipwreck no plank can be allowed to pass. You had no right to come into this affair, if you had no regard for Mr. Garnett's peril."

"Since I came into the affair," replied Randolph Mason, "Mr. Garnett has never been in peril."

This conversation with its last enigmatic answer of Randolph Mason was interrupted by the abrupt entrance of Margaret Garnett. The whole aspect of the woman was transformed as under some enchantment; she seemed in some mysterious way to be flooded with color—silver struck into life, porcelain running

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beneath its white glaze with blood. Her pose was imperious, dominant, exulting.

She spoke to Randolph Mason, ignoring the rest of us as though we were interminably distant.

"You, even you," she said, "could not defeat him. He got what he wanted in spite of you."

Mason regarded her with a leisurely, ironic interest.

"Thomas B. Wood," he replied, "has got nothing."

"Nothing!" she repeated. "Do you call a control of my father's railroads nothing? a control of millions nothing? a seat in the United States Senate nothing? And what have you taken from him for it? indeed, what have you taken! A paltry federal office!"

"I have taken," replied Randolph Mason, "the little that he had, and I have given nothing." Then he added as though likewise in explanation to the rest of us, "In the removal of this man from his office it was not my intention that he should obtain any benefit from John A. Garnett."

"Then," she cried, "you have failed."

"I have not failed," replied Randolph Mason, speaking with cold precision. "This assignment of stock was delivered to Thomas B. Wood in consideration of the resignation of his office. Such contracts are void as against public policy. The Consolidated Fuel Railroads will refuse to recognize the validity of this assignment, and it cannot be enforced in the courts. It cannot avail this man that the paper is in

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legal form and recites another and valid consideration, when the moving consideration was in fact the resignation of a federal office."

The atmosphere of victory rising about John A. Garnett was less impressive than that atmosphere of disaster fallen thus swiftly on his daughter. The wondrous vitality of her figure vanished; the light fled from the silver, the blood from the porcelain. Then, as by some masterful effort, going to the very springs of life, it all splendidly returned. She looked steadily at Randolph Mason, her eyes two lines of light.

"I repeat it," she said slowly, "you have failed. This man shall receive everything that he expected to receive—my father's influence, the controlling interest in this railroad and a seat in the United States Senate."

The lips of Randolph Mason parted in a cynical smile. "I should be interested to learn," he said, "by what avenue of propitious fortune he is to obtain these benefits."

"I shall marry him," replied Margaret Garnett.

For the legal principle involved in this story, see the following leading cases: *Forbes v. McDonald*, 54 Cal. 98; *Basket v. Moss*, 115 N. C. 448, 20 S. E. 733, 44 Am. St. Rep. 463, 48 L. R. A. 842; *Eddy v. Capron*, 4 R. I. 394, 67 Am. Dec. 541; *Meachem v. Dow*, 32 Vt. 721. The officer's real motive for resigning is immaterial. *Eddy v. Capron*, 4 R. I. 394, 67 Am. Dec. 541.

